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Chapter 595

SCHOOL FOOD AND NUTRITION SERVICES

CHAPTER 595

SCHOOL FOOD AND NUTRITION SERVICES

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595.401 Short title.— This chapter may be cited as the “Florida School Food and Nutrition Act.”

History.—s. 28, ch. 2013-226.

595.402 Definitions.— As used in this chapter, the term:

- (1) “Commissioner” means the Commissioner of Agriculture.
- (2) “Department” means the Department of Agriculture and Consumer Services.
- (3) “Program” means any one or more of the school food and nutrition service programs that the department has responsibility over including, but not limited to, the National School Lunch Program, the Special Milk Program, the School Breakfast Program, the Summer Food Service Program, the Fresh Fruit and Vegetable Program, and any other program that relates to school nutrition.
- (4) “School breakfast program” means a program authorized by s. 4 of the Child Nutrition Act of 1966, as amended, and administered by the department.
- (5) “School district” means any of the 67 county school districts, including the respective district school board.
- (6) “Sponsor” means any entity that is conducting a program under a current agreement with the department.
- (7) “Summer nutrition program” means one or more of the programs authorized under 42 U.S.C. s. 1761.
- (8) “Universal school breakfast program” means a program that makes breakfast available at no cost to all students regardless of their household income.

History.—s. 29, ch. 2013-226; s. 35, ch. 2016-61.

595.403 State policy.— The Legislature, in recognition of the demonstrated relationship between good nutrition and the capacity of students to develop and learn, declares that it is the policy of the state to provide standards for school food and nutrition services and to require each school district to establish and maintain an appropriate school food and nutrition service program consistent with the nutritional needs of students. To implement that policy, the state shall provide funds to meet the state National School Lunch Act matching requirements. The funds provided shall be distributed in such a manner as to comply with the requirements of the National School Lunch Act.

History.—s. 30, ch. 2013-226.

595.404 School food and other nutrition programs; powers and duties of the department.— The department has the following powers and duties:

- (1) To conduct, supervise, and administer the program that will be carried out using federal or state funds, or funds from any other source.
- (2) To conduct, supervise, and administer a farmers' market nutrition program to provide participants in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) with locally grown fruits and vegetables that will be carried out using federal or state funds, or funds from any other source.
- (3) To fully cooperate with the United States Government and its agencies and instrumentalities so that the department may receive the benefit of all federal financial allotments and assistance possible to carry out the purposes of this chapter.
- (4) To implement and adopt by rule, as required, federal regulations.
- (5) To act as agent of, or contract with, the Federal Government, another state agency, any county or municipal government, or sponsor for the administration of the program, including the distribution of funds provided by the Federal Government to support the program.
- (6) To provide a "severe need school" the highest rate of reimbursement to which it is entitled under 42 U.S.C. s. 1773 for each breakfast meal served.
- (7) To develop and propose legislation necessary to implement the program, encourage the development of innovative school food and nutrition services, and expand participation in the program.
- (8) To annually allocate among the sponsors, as applicable, funds provided from the school breakfast supplement in the General Appropriations Act based on each district's total number of free and reduced-price breakfast meals served.
- (9) To employ such persons as are necessary to perform its duties under this chapter.
- (10) To adopt rules covering the administration, operation, and enforcement of the program and the farmers' market nutrition program, as well as to implement the provisions of this chapter.
- (11) To adopt and implement an appeal process by rule, as required by federal regulations, for applicants and participants under the programs implemented pursuant to this chapter, notwithstanding ss. 120.569 and 120.57-120.595.
- (12) To assist, train, and review each sponsor in its implementation of the program.
- (13) To advance funds from the program's annual appropriation to a summer nutrition program sponsor, when requested, in order to implement the provisions of this chapter and in accordance with federal regulations.
- (14) To collect data on food purchased through the programs defined and described in ss. 595.402(3) and 595.406 and to publish that data annually.
- (15) To enter into agreements with federal or state agencies to coordinate and cooperate in the implementation of nutrition programs.

History.—s. 4, ch. 2011-217; s. 31, ch. 2013-226; s. 36, ch. 2016-61.

Note.— Former s. 570.98.

595.405 School nutrition program requirements.—

- (1) Each district school board shall consider the recommendations of the district school superintendent and adopt policies to provide for an appropriate food and nutrition program for students consistent with federal law and department rules.
- (2) Each district school board shall implement school breakfast programs that make breakfast meals available to all students in each school that serves any combination of grades kindergarten through 5.
- (3) Each district school board must annually set prices for breakfast meals at rates that, combined with federal reimbursements and state allocations, are sufficient to defray costs of school breakfast programs without requiring allocations from the district's operating funds, except if the district school board approves lower rates.
- (4) Each school operating a breakfast program shall make a breakfast meal available if a student arrives at school on the school bus less than 15 minutes before the first bell rings and shall allow the student at least 15 minutes to eat the breakfast.

(5) Each district school board is encouraged to provide universal, free school breakfast meals to all students in each elementary, middle, and high school. A universal school breakfast program shall be implemented in each school in which 80 percent or more of the students are eligible for free or reduced-price meals, unless the district school board, after considering public testimony at two or more regularly scheduled board meetings, decides not to implement such a program in such schools.

(6) To increase school breakfast and universal school breakfast program participation, each district school board must, to the maximum extent practicable, make breakfast meals available to students through alternative service models as described in publications of the Food and Nutrition Service of the United States Department of Agriculture for the federal School Breakfast Program.

(7) Each district school board shall annually provide information prepared by the district's food service administration regarding available school breakfast programs. The information shall be communicated through school announcements and notices sent to all parents.

(8) A district school board may operate a breakfast program providing for food preparation at the school site or in central locations with distribution to designated satellite schools, or any combination thereof.

History.—s. 271, ch. 2002-387; s. 1, ch. 2008-190; s. 16, ch. 2009-59; s. 5, ch. 2011-217; s. 32, ch. 2013-226; s. 37, ch. 2016-61.

Note.—Former s. 1006.06; s. 570.981(1)-(5).

595.406 Florida Farm to School Program.—

(1) In order to implement the Florida Farm to School Program, the department shall develop policies pertaining to school food services which encourage:

- (a) Sponsors to buy fresh and high-quality foods grown in this state when feasible.
- (b) Farmers in this state to sell their products to sponsors, school districts, and schools.
- (c) Sponsors to demonstrate a preference for competitively priced organic food products.
- (d) Sponsors to make reasonable efforts to select foods based on a preference for those that have maximum nutritional content.

(2) The department shall provide outreach, guidance, and training to sponsors, schools, school food service directors, parent and teacher organizations, and students about the benefit of fresh food products from farms in this state.

(3) The department may recognize sponsors who purchase at least 10 percent of the food they serve from the Florida Farm to School Program.

History.—s. 1, ch. 2010-183; s. 5, ch. 2011-217; s. 33, ch. 2013-226; s. 38, ch. 2016-61.

Note.—Former s. 1006.06; s. 570.981(6).

595.407 Children's summer nutrition program.—

(1) This section may be cited as the "Ms. Willie Ann Glenn Act."

(2) Each school district shall develop a plan to sponsor or operate a summer nutrition program to operate sites in the school district as follows:

(a) Within 5 miles of at least one school that serves any combination of grades kindergarten through 5 at which 50 percent or more of the students are eligible for free or reduced-price school meals for the duration of 35 days between the end of the school year and the beginning of the next school year. School districts may exclude holidays and weekends.

(b) Within 10 miles of each school that serves any combination of grades kindergarten through 5 at which 50 percent or more of the students are eligible for free or reduced-price school meals, except as operated pursuant to paragraph (a).

(3)(a) A school district may be exempt from sponsoring a summer nutrition program pursuant to this section. A school district seeking such exemption must include the issue on an agenda at a regular or special school district meeting that is publicly noticed, provide residents an opportunity to participate in the discussion, and vote on whether to be exempt from this section. The school district shall notify the department within 10 days after it decides to become exempt from this section.

(b) Each year, the school district shall reconsider its decision to be exempt from the provisions of this section and shall vote on whether to continue the exemption from sponsoring a summer nutrition program. The school district shall notify the department within 10 days after each subsequent year's decision to continue the exemption.

(c) If a school district elects to be exempt from sponsoring a summer nutrition program under this section, the school district may encourage not-for-profit entities to sponsor the program. If a not-for-profit entity chooses to sponsor the summer nutrition program but fails to perform with regard to the program, the school district and the department are not required to continue the program and shall be held harmless from any liability arising from the discontinuation of the summer nutrition program.

(4) The superintendent of schools may collaborate with municipal and county governmental agencies and private, not-for-profit leaders in implementing the plan. Although schools have proven to be the optimal site for a summer nutrition program, any not-for-profit entity may serve as a site or sponsor. By April 15 of each year, each school district with a summer nutrition program shall report to the department the district's summer nutrition program sites in compliance with this section.

(5) The department shall provide to each school district by February 15 of each year a list of local organizations that have filed letters of intent to participate in the summer nutrition program in order that a school district may determine how many sites are needed to serve the children and where to place each site.

History.—s. 1, ch. 2005-73; s. 6, ch. 2011-217; s. 34, ch. 2013-226; s. 39, ch. 2016-61.

Note.—Former s. 1006.0606; 570.982.

595.408 Food distribution services; department responsibilities and functions.—

(1)(a) The department shall conduct, supervise, and administer all food distribution services that will be carried on using federal or state funds, or funds from any other source, or food received and distributed from the United States or any of its agencies.

(b) The department shall determine the benefits each applicant or recipient of assistance is entitled to receive under this chapter, provided that each applicant or recipient is a resident of this state and a citizen of the United States or is an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

(2) The department shall cooperate fully with the United States Government and its agencies and instrumentalities so that the department may receive the benefit of all federal financial allotments and assistance possible to carry out the purposes of this chapter.

(3) The department may:

(a) Accept any duties with respect to food distribution services as are delegated to it by an agency of the Federal Government or any state, county, or municipal government.

(b) Act as agent of, or contract with, the federal government, state government, or any county or municipal government in the administration of food distribution services to secure the benefits of any public assistance that is available from the federal government or any of its agencies, and in the distribution of funds received from the federal government, state government, or any county or municipal government for food distribution services within the state.

(c) Accept from any person or organization all offers of personal services, food, or other aid or assistance.

(4) This chapter does not limit, abrogate, or abridge the powers and duties of any other state agency.

History.—s. 54, ch. 92-58; s. 4, ch. 93-169; s. 35, ch. 2013-226; s. 40, ch. 2016-61.

Note.—Former s. 570.072.

595.409 Public records exemption.—

(1) Personal identifying information of an applicant for or participant in a school food and nutrition service program, as defined in s. 595.402, held by the department or the Department of Education is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(2)(a) Such information shall be disclosed to:

1. Another governmental entity in the performance of its official duties and responsibilities; or
2. Any person who has the written consent of the applicant for or participant in such program.

(b) This section does not prohibit a participant's legal guardian from obtaining confirmation of acceptance and approval, dates of applicability, or other information the legal guardian may request.

(3) This exemption applies to any information identifying a program applicant or participant held by the department or the Department of Education before, on, or after the effective date of this exemption.

History.—s. 1, ch. 2013-217; s. 1, ch. 2018-74.

595.420 Food recovery; legislative intent; department functions.—

(1) The Legislature finds that:

(a) Millions of pounds of surplus and slightly blemished fresh fruit and vegetables are destroyed each year, while many ¹residents of this state go each day without food.

(b) Food recovery programs can beneficially aid residents of this state who lack the means to purchase fresh fruit and vegetables by providing such surplus food to governmental agencies and local volunteer and nonprofit organizations for distribution to those in need, rather than continuing to see it destroyed.

(c) The state, through the Commissioner of Agriculture, should assist food recovery programs, when needed, to aid in their establishment and to support their continued and efficient operation.

(2) A food recovery program is a local, volunteer-based organization near an agricultural production area of the state that is established for the exclusive purpose of soliciting, collecting, packaging, and delivering surplus fresh fruit and vegetables for distribution in communities throughout the state. Distribution of the food to the needy would be accomplished by governmental agencies and volunteer and nonprofit organizations.

(3) In helping to coordinate the establishment of food recovery programs, the department may:

(a) Identify suppliers, volunteers, and nonprofit organizations in the community to ascertain the level of interest in establishing a food recovery program.

(b) Provide facilities and other resources for initial organizational meetings.

(c) Provide direct and indirect support for the fledgling program, upon demonstration of serious interest at the local level.

(4) The department may provide direct and indirect support to food recovery programs that are unable to obtain specific assistance from their communities or other sources by loaning equipment, facilities, and staff resources for the collection, packaging, storage, and transportation of donated food, as needed.

(5) The department shall account for the direct and indirect costs associated with supporting food recovery programs throughout the state. It shall submit an electronic report to the President of the Senate and the Speaker of the House of Representatives by November 1, for the previous fiscal year, when state funds are spent for this purpose. The report must include, but need not be limited to, the identity of organizations receiving funds, the amount of funds disbursed to these organizations, other uses of food recovery funds, and estimates of the amount of fresh produce recovered.

(6) It is the intent of the Legislature that each potential donor, to the greatest extent possible and practicable, make available to any bona fide charitable or nonprofit organization, to any representative or volunteer acting on behalf of such an organization, to an uncompensated person acting in a philanthropic manner providing services similar to those of such an organization, or to a transporter any surplus or excess canned or perishable food for use by such an organization or person to feed homeless persons or other persons who are in need of food and are otherwise unable to provide food for themselves. In achieving this intent, the following provisions must be followed:

(a) Each donor shall make every reasonable effort to contact bona fide charitable or nonprofit organizations in the community in which the donor operates in order to provide for the collection by such organizations of any surplus or excess canned food or perishable food from the donor.

(b) Each bona fide charitable or nonprofit organization in this state which provides, as a part of the services that the organization provides to the community in which it operates, food for persons who are in need of food or are otherwise unable to provide food for themselves, or which collects and transports such food to such organizations, shall make every reasonable effort to contact any donors within the organization's area of operations for purposes of collecting any surplus or excess canned food or perishable food for use in providing such services.

(7) For public information purposes, the department shall develop a public information brochure detailing the need of food recovery programs, the benefit of food recovery programs, the manner in which such organizations may become involved in food recovery programs, the protection afforded to such programs under s. 768.136, and the food recovery entities or food banks that exist in the state. This brochure must be updated annually.

History.—s. 2, ch. 94-234; s. 13, ch. 94-335; s. 1, ch. 98-283; s. 154, ch. 2010-102; s. 61, ch. 2014-150.

¹**Note.**— As created by s. 2, ch. 94-234. The enactment by s. 13, ch. 94-335, used the term “Florida citizens” instead of the term “residents of this state.”

Note.— Former s. 570.0725.

595.501 Corrective action plans; penalties. —

(1) When a corrective action plan is issued by the department or a federal agency, each sponsor is required to complete the corrective action plan to be in compliance with the program.

(2) Any person or sponsor that violates any provision of this chapter or any rule adopted thereunder or otherwise does not comply with the program is subject to a suspension or revocation of their agreement, loss of reimbursement, or a financial penalty in accordance with federal or state law, or both. This section does not restrict the applicability of any other law.

History.—s. 36, ch. 2013-226; s. 41, ch. 2016-61.

595.601 Food and Nutrition Services Trust Fund.— Chapter 99-37, Laws of Florida, recreated the Food and Nutrition Services Trust Fund to record revenue and disbursements of Federal Food and Nutrition funds received by the department as authorized in ss. 595.404 and 595.408.

History.—s. 589, ch. 2002-387; s. 7, ch. 2011-217; s. 37, ch. 2013-226; s. 42, ch. 2016-61.

Note.— Former s. 1010.77; s. 570.983.

595.701 Healthy Schools for Healthy Lives Council. —

(1) There is created within the Department of Agriculture and Consumer Services the Healthy Schools for Healthy Lives Council, which shall consist of 11 members appointed by the Commissioner of Agriculture. The council shall advise the department on matters relating to nutritional standards and the prevention of childhood obesity, nutrition education, anaphylaxis, and other needs to further the development of the various school nutrition programs.

(2) The meetings, powers, duties, procedures, and recordkeeping of the Healthy Schools for Healthy Lives Council shall be pursuant to s. 570.232.

History.—s. 9, ch. 2011-217; s. 38, ch. 2013-226; s. 152, ch. 2014-150.

Note.— Former s. 570.984.

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