

*****DRAFT - NOT FOR FILING*****

173-4-04 Congregate nutrition program.

(A) "Congregate nutrition program" means a program that consists of administrative functions; meal production; the provision of nutritious, safe, and appealing meals for eligible consumers in a group setting; and the provision of the nutrition-related services described in rules 173-4-05 to 173-4-09 of the Administrative Code. The purpose of a congregate nutrition program is to promote health, to reduce risk of malnutrition, to improve nutritional status, to reduce social isolation, and to link older adults to community services.

Comment [ODA1]: FOR RESCISSION. Please also review the proposed new version of the rule.

(B) **Minimum requirements for a congregate nutrition program:**

Comment [ODA2]: This term is used many times in Chapter 173-4 of the Administrative Code. ODA proposes to no longer define it here. Instead, ODA proposes to define it in rule 173-4-01 of the Administrative Code.

(1) **Eligibility and enrollment:**

Comment [ODA3]: As ODA has been systematically doing on a project-by-project basis, ODA proposes to remove the term "minimum requirements" from this chapter. The term implies that extra regulations could be created that fly below the radars of CSIO and JCARR

(a) Before the provider provides a meal to a person, the provider shall verify the person's eligibility under rule 173-4-02 of the Administrative Code.

(b) For a guest or paid staff member who desires to receive a meal from the provider but is ineligible to participate in a congregate nutrition program, the provider shall require the guest or paid staff member to pay for the meal. The provider shall use all collected fees to expand the service for which the fees were given and to supplement (not supplant) funds given to the provider to provide the service.

Comment [ODA4]: ODA proposes to no longer duplicate its own eligibility criteria language here. Please see rules 173-4-02 and 173-4-03 of the Administrative Code.

(2) **Frequency of meals:** The provider may provide meals five to seven days per week. If this frequency is not feasible, the provider may provide meals on a less-frequent basis, if the less-frequent basis is approved by the AAA.

Comment [ODA5]: ODA is proposing to delete the second sentence. There is no need for an exception to a permissible (*i.e.*, "may," not "shall") requirement.

(3) **Voluntary contributions:**

Comment [ODA6]: ODA proposes to no longer duplicate its own voluntary contributions language here. Please see rule 173-3-07 of the Administrative Code.

(a) The provider shall provide each consumer with the opportunity to voluntarily contribute to a meal's cost and the provider shall accept the voluntary contributions. When soliciting for voluntary contributions, the provider shall:

(i) Clearly inform each consumer that he/she has no obligation to contribute and that the contribution is purely voluntary. It is the consumer who determines how much he/she is able to contribute toward the meal's cost. The provider may not deny a consumer a meal because the consumer does not contribute;

(ii) Protect each consumer's privacy and confidentiality with respect to the consumer's contribution or lack of contribution; and,

(iii) Establish appropriate procedures to safeguard and account for all contributions.

(b) The provider shall use all collected contributions to expand the congregate nutrition program for which the contributions were given and to supplement (not supplant) funds given to the provider to operate the program.

(c) The provider may not choose to base suggested contribution levels on a means test. Instead, the provider may choose to base suggested contribution levels on one or more of the following options:

(i) A suggested contribution;

(ii) A set range of suggested contribution levels based on income ranges from the United States census bureau; and,

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(iii) The meal's actual cost. For a person whose self-declared income is at or above one hundred eighty-five per cent of the poverty line, the provider shall encourage a voluntary contribution based on the meal's actual cost.

(4) Records: The provider shall develop and utilize a system for documenting meals served. Acceptable methods for documenting meals served include the following:

- (a) On a daily, weekly, or monthly basis, obtain the signatures of consumers who received meals on an attendance sheet; or,
- (b) Maintain a daily, weekly, or monthly attendance sheet for meals that is signed by the provider or a designee of the provider.

(5) Nutrition consultation and nutrition education: The provider agreement shall determine whether it is the responsibility of the provider or the AAA to provide to each consumer enrolled in the congregate nutrition program a nutrition consultation service under rule 173-4-06 of the Administrative Code, a nutrition education service under rule 173-4-07 of the Administrative Code, or both services.

(6) Food safety and sanitation:

- (a) The provider shall maintain documentation that demonstrates that all meals prepared by the provider or a subcontractor comply with sections 918.01 to 918.31 of the Revised Code and Chapter 3717-1 of the Administrative Code, which is also known as "The State of Ohio Uniform Food Safety Code."
- (b) The provider shall maintain appropriate licenses and demonstrate compliance with local health department inspections and Ohio department of agriculture inspections.
- (c) No later than five calendar days after receipt of a critical citation issued by the local health department or the Ohio department of agriculture, the provider shall report to the AAA the critical citation and also a corrective action plan.
- (d) Regardless of whether the food items are purchased or donated, the provider shall only use food items from a source approved by the AAA.
- (e) The provider shall not reuse a food item that has been served to a consumer that is a time/temperature controlled for safety food.
- (f) The provider may not serve food obtained from food banks or other food sources that surpasses its use by date or expiration date.
- (g) The provider shall develop written materials on the procedure for allowing a consumer to remove items from the congregate nutrition program after the consumer finishes eating.

(7) Food temperatures:

- (a) Thermometers:
 - (i) To protect the integrity of packaged food (e.g., milk carton or thermal meal container), a provider may use an infrared thermometer that measures the food's surface temperature.
 - (ii) If the provider measures the packaged food's temperature with an infrared thermometer and finds that the food does not meet standards, the provider shall use a probe thermometer to measure the

Comment [ODA7]: For every service that ODA regulates, including home-delivered meals under rule 173-39-02.14 of the Administrative Code, ODA requires a per-service verification that the goods or services were delivered. For meals, that meals that the meal was delivered. The congregate and home-delivered meals under rules 173-4-04 and 173-4-04.1 have been the exceptions. The proposed new rules will not contain any such exception.

Comment [ODA8]: ODA is proposing to eliminate duplicate food safety and sanitation regulations. The Department of Agriculture and local health districts have food safety and sanitation authority over meal providers. ODA does not retain this authority. Repeating elements of the Ohio Uniform Food Safety Code in ODA's rules may appear to authorize ODA or area agencies on aging (AAAs) to conduct duplicate food safety and sanitation inspections upon providers. ODA is proposing to clarify that it does not authorize duplicate inspections. This will bring ODA into compliance with section 119.032 of the Revised Code.

Comment [ODA9]: Please see the previous note.

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food's internal temperature. Before inserting a probe thermometer into the food, the provider shall clean and sanitize the probe thermometer and practice proper hand-washing techniques.

(b) Monitoring:

- (i) A provider who produces food on site shall measure the food temperatures when the food is ready to serve. If the temperatures do not meet standards, the provider shall reheat or refrigerate the food until the proper temperatures are reached.
- (ii) A provider who receives bulk food from food preparers shall measure the food temperatures upon receiving the food from the food preparers. If the temperatures do not meet standards, the provider shall not accept the food.

(8) Food-borne illness:

- (a) The provider shall promptly notify the local health department when any person complains of a food-borne illness.
- (b) No more than two calendar days after the occurrence or receipt of a complaint regarding an outbreak of food-borne illness, the provider shall report the complaint to the AAA.

(9) Emergencies: The provider shall develop and implement written contingency procedures for emergency closings due to short-term weather-related emergencies, loss of power, kitchen malfunctions, natural disasters, etc. In the procedures, the provider shall include:

- (a) Providing timely notification of emergency situations to consumers; and,
- (b) The distribution of:
 - (i) Information to consumers on how to stock an emergency food shelf; or,
 - (ii) Shelf-stable meals to consumers for emergency situations.

(10) Staff training:

- (a) For each staff member, whether the staff member works as a paid employee or a volunteer, the provider shall provide an orientation and adequate training to perform assigned responsibilities.
- (b) Using a protocol established by the AAA, the provider shall maintain documentation of training provided to each staff member, whether the staff member works as a paid employee or a volunteer.

(11) Quality assurance:

- (a) The provider shall monitor all aspects of the congregate nutrition program and take action to improve services. This includes the monitoring of food packaging, food temperatures during storage, food preparation, holding food before and during the meal service, retention of food quality characteristics (e.g., flavor and texture), delivery of the food to the congregate nutrition site, and all applicable federal, state, and local regulations.
- (b) The provider shall develop and implement an annual plan to evaluate and improve the effectiveness of the program's operations and services to ensure continuous improvement. In the plan, the provider shall include:

Comment [ODA10]: Please see the previous note.

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- (i) A review of the existing program;
 - (ii) Satisfaction survey results from consumers, staff, and program volunteers;
 - (iii) Program modifications made that responded to changing needs or interests of consumers, staff, or volunteers;
 - (iv) Proposed program and administrative improvements; and,
 - (v) Results of program monitoring.
- (c) The provider shall elicit comments from consumers on the dining environment, type of food, portion size, food temperatures, nutrition program schedule, and staff professionalism.