

OCFP Office of Rules and Procedures	Department of Children and Family Services	
	Index No: 2009.01	Issuance Date: March 11, 2009
	Origin of Request: Office of Child and Family Policy	
	Distribution: Licensing Staff, Administrative Staff (A,L,P)	
	Key Words: 89 IAC 407, Licensing Standards for Day Care Centers, Exempt Lunch Programs	
Approved by: 		

Interpretation

Question: May day care programs that establish special activities programs as defined in Section 2.09(g) of the Child Care Act, allow children to bring their lunches from home.

Applicable To: Licensed Day Care Centers

Policy Citation: Child Care Act of 1969, Sec. 2.09 - "Day care center" means any child care facility which regularly provides day care for less than 24 hours per day for (1) more than 8 children in a family home, or (2) more than 3 children in a facility other than a family home, including senior citizen buildings. The term does not include...(g) special activities programs, including athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations; [225 ILCS 10/2.09]

407.330(f) - All food consumed by children under the supervision of the child care center shall be provided by the center, except as follows:

- 1) Parents may provide food for infants not yet consuming table food or for any child requiring a special diet that cannot reasonably be provided by the center.
- 2) Upon agreement of the staff, commercially prepared foods may be brought in occasionally by parents as part of holiday or birthday celebrations. Food brought in for this purpose must arrive unopened as packaged by the bakery or manufacturer, or it shall not be accepted.
- 3) If food is to be catered rather than prepared at the center, a dated contract with the catering service specifying the number of food orders to be delivered shall be available for review.

407.330(h) - Adequate and appropriate food shall be served according to the amount of time the child spends at the center. The center shall provide to of the child's daily nutrient needs depending on length of stay, as outlined in the chart below. These nutrient needs are based on the current recommended dietary allowances set by the Food and Nutrition Board of the National Research Council and are outlined in Appendix D and Appendix E.

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Discussion:

Some licensed day care programs have established special activities programs as defined in Section 2.09(g) of the Child Care Act. These operate before or after the licensed day care program, and many allow children to bring their lunches from home. Such programs are exempt from licensure and not subject to the nutrition requirements in the Licensing Standards for Day Care Centers.

The Department has determined that these special lunch activity programs meet the exemption requirements in the Child Care Act if:

1. enrollment in the lunch activity program is separate from enrollment in the preschool program and there is a separate fee (if charged);
2. the lunch activity program operates less than five days per week or individual children are enrolled for less than five days per week; and
3. the lunch activity program is operated by a governmental, civic or charitable (non-profit) organization.

Response:

Day care programs that establish special activities programs as defined in Section 2.09(g) of the Child Care Act may allow children to bring their lunches from home, when their local licensing authority determines that they meet the following requirements:

1. **enrollment in the lunch activity program is separate from enrollment in the preschool program and there is a separate fee (if charged);**
2. **the lunch activity program operates less than five days per week or individual children are enrolled for less than five days per week; and**
3. **the lunch activity program is operated by a governmental, civic or charitable (non-profit) organization.**

If the local licensing authority determines that the aforementioned requirements are not met, a day care center may request a declaratory ruling from the Department's Office of Child and Family Policy for a final determination of the exempt status of its lunch program.