

# **Policy Guidelines for Distributing Feeding America, Kentucky's Heartland Product**

**All Feeding America, Kentucky's Heartland (FAKH) Member Agencies must be federally exempt 501C(3) organizations, wholly owned by a 501C(3), 501C(3) equivalent (churches), or have an established 501C(3) Separate Fund.**

**All personnel of the Member Agency who will come in contact with FAKH products must be made aware of the following guidelines:**

1. Agencies (or individuals/families receiving product from agencies) **may not sell, barter or trade** FAKH product. (Section 170©3, IRS Code).
2. Agencies may not request and/or accept monetary contributions from clients seeking assistance.
3. Agencies will be charged a shared maintenance fee based on pounds of product received from FAKH. The amount of the shared maintenance fee can vary anywhere from 1 to 19 cents/pound. The shared maintenance (or handling) fee is not in exchange for the product received and is not based on the value of the product but is charged to cover administrative, warehousing and other similar costs. According to Section 170(E)(3) of the IRS code, this type of fee may only be charged by one organization to another, but no fee may be charged in connection with the transfer of FAKH products from an organization to the needy, ill, or infants.
4. Agencies (pantries) must use the income guidelines provided on the top of the pantry sign in log when determining client eligibility guidelines for FAKH product. The agency manager may grant exceptions to the income guidelines for special situations. Remember, though, any exceptions made must be consistent, and primary service must still be directed to "the ill, needy, and infants." Non-pantry type agencies (feeding programs) must insure that FAKH product is served primarily to the ill, needy, and infants. (Note that the guidelines for USDA commodity distribution are not as flexible.)
5. FAKH products must be equally available to all eligible "ill, needy or infants" without regard to race, gender, national origin, handicaps or religious preferences. Food recipients may not be required to listen to preaching or profess a certain faith to receive food service, and may not be denied service or unequal treatment on the basis of their religious orientations.
6. Donated product may not be used for fundraising purposes, either as prepared food (dinners or bake sales) or as prizes for contests.
7. An agency (i.e., senior feeding program, day care, etc.) which serves both needy and non-needy clients must ensure that a majority (51 percent or more) of its clients are low-income or from low-income families.
8. Agencies may not pay or thank volunteers with donated product. Doing so is contrary to both tax and labor law.
9. Designated persons within an agency may consume or take home donated product to: (a) become more familiar with them (and be able to advise clients as to their uses); (b) discover new ways in which they can be used; and/or (c) test their fitness for consumption.

10. Staff or volunteers in need must meet the same standards of need as all other persons coming to the agency for assistance, and must follow the same procedures to receive assistance. Emergency situations should be dealt with by designated persons within the agency, and must be handled discreetly to preserve client confidentiality.
11. Agencies may use non-food items (hand soap, toilet paper, cleaning supplies) provided by FAKH for use in agency upkeep or in support of the agency's food distribution program. Use of these items by the agency must be controlled by designated persons within the agency, and must be documented, monitored and periodically evaluated.
12. Agencies may pull donated food items (pastries, tea, coffee, sugar, etc.) from inventory for on-site consumption by agency volunteers in special circumstances. Volunteers who qualify, based on need, may be served a meal using FAKH product. Agency staff (not of low income) may not use FAKH product for regular meals or snacks. Bread and bakery products that are in excess and will spoil may be made available to staff, but only after all needy persons have been served.
13. Agencies may use donated goods as refreshments for business meetings where agency-related business is conducted and refreshments are normally served. Use of product for this purpose should be incidental to its primary use in the care of the ill, needy or infants. However, FAKH does not recommend this practice.
14. Agencies may distribute donated product in disaster situations, where volunteer workers who may not otherwise be ill, needy or infants may consume some product.
15. Agencies may provide services to persons involved in labor disputes if the agency's normal standards of determining need are followed. Need verification tests should go beyond the fact of the person's being temporarily without income from their normal job and a member of a union involved in a dispute. Having a working spouse, receiving strike pay, or working at a temporary job would likely serve as a basis for declaring a client ineligible for food assistance.
16. A 501C(3) agency may designate a non-501C(3) group to act as its agent in distributing donated product obtained from FAKH. However, the 501C(3) agency must be responsible for the product distribution activities of the designated group. Funds used to pay the shared maintenance must come from the 501C(3) agency, not the designated group. All funds received and disbursed in connection with the donated product must go through the fiscal books of the 501C(3) agency.
17. Home-based service programs (such as foster care homes or family-based day care) are excluded from FAKH membership, unless the service is provided under the auspices of a 501C(3) organization.
- 18. Entities operated directly by a branch of government (local, state or federal) are municipalities, not 501C(3) agencies, and, therefore, are not eligible to receive donated product from FAKH. This includes jails, prisons, schools, or hospitals that are instruments of municipalities.**
19. FAKH member agencies may not distribute donated product outside FAKH's service territory, except with special approval from FAKH.
20. Unusable (spoiled) donations of FAKH food may be distributed to a non-501C(3) party for use as animal food. There must be a written agreement between the animal feeder and the agency in which it is clear that the donated product will only be used as animal feed and will not be sold, transferred or bartered for money, property or other services. FAKH can provide details as to the content of the agreement upon request.

# STATEMENT ON PRODUCT ABUSE

**This is an EXTREMELY IMPORTANT matter.**

**Please share this notice with all who come into contact with FAKH products.**

All products that come to your agency from FAKH **are under the jurisdiction of the U.S. Internal Revenue Service, and are federal property.** They were donated for charitable use under the provisions of Section 170(e)(3) of the IRS Code. Under this Code, your **only lawful use** of such products is to provide them **absolutely free of charge to the ill, the needy and/or infants** in full compliance with your agreement with FAKH. This means:

1. You **MAY NOT sell, trade, or barter** the goods to earn money or goods for your agency.
2. You **MAY NOT** take any goods for **your personal use** unless you meet the eligibility requirements to receive the products.
3. You **MAY NOT pay yourself or volunteers** with FAKH products.
4. You **MAY NOT** give them to **ANYONE** except those who you believe to be **“ill, needy, and/or infants.”** Church suppers, social events, bake sales, fund raisers and other congregational activities **are not** acceptable uses of FAKH products.

FAKH programs are provided for the benefit of the member agencies and the people they serve. We must rely on our member agencies to ensure that products are served only to those whom food banking is intended to benefit. **Any abuse of FAKH products will result in immediate and unconditional expulsion from the program.**

We emphasize this because FAKH products may tempt otherwise honest, law-abiding people to break the law. **DON'T DO IT!** Penalties for misappropriating donated products are severe. Convicted offenders face up to **20 years in prison** and fines of up to **\$20,000.**

I have read and understand the above policy guidelines.

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# Feeding America, Kentucky's Heartland

## Monitoring/Inspections And Probation and/or Suspension Policy

Feeding America, Kentucky's Heartland (FAKH) will conduct an on-site visit of each Member Agency prior to membership approval. Once approved, each Member Agency may be monitored on or after its six-month anniversary, and again on or after its twelve-month anniversary, at the discretion of the FAKH Agency Relations Coordinator and/or Executive Director. Following the first year, each Member Agency will be monitored bi-annually. However, FAKH, at its own discretion, reserves the right to monitor each or any Member Agency more frequently. Monitoring may be done on an announced or unannounced basis by on-site visits and/or oral or written communication. As part of the monitoring process, FAKH also reserves the right to use anonymous monitors and/or call recent visitors to the Member's pantry. The following violations will require corrective action to be taken by FAKH: The level of corrective action depends on the severity of the offense and may range from verbal notice and follow-up to suspension/termination.

### Violations

1. Exchanging donated food or other product for money, property or services.
2. Using donated food or other products in a manner that is not related to the exempt purposes of the Member Agency, (i.e., church functions, fundraisers, etc).
3. Distributing/issuing product to another organization (501C3 or not) without proper authority from FAKH.
4. Inadequate screening of clients for need.
5. Delinquent payment of shared maintenance contributions.
6. Donated food or other products are improperly stored, refrigerated or transported.
7. Donated food or other product is improperly stockpiled.
8. Member agency is in violation of any state or local statute, ordinance, code or regulation.
9. Member agency otherwise violated the Basic Agreement between itself and FAKH, including amended guidelines/policies promulgated by the FAKH Executive Director or Board of Directors.

### Levels of Corrective Action

**Verbal Notice:** Depending on the severity of the offense, the Member Agency may be verbally notified of a discrepancy and/or violation and given the opportunity to immediately correct the situation. If the situation is corrected no further action will be required.

**Written Notice:** For a more substantive violation, the Member Agency may be notified in writing by the Agency Relations Coordinator and required to respond in writing to the same when corrective action has been taken. A follow-up monitoring may be required.

**Probation:** For a more serious violation and/or failure to correct a violation with a verbal and/or written notice, a Member Agency may be placed on probation for a period not to exceed six months. Notification of probation must be in writing. The Executive Director has the authority to place member agencies on probation.

The purpose of the probationary period is to place a Member Agency on notice that it must bring its program into compliance or be suspended. The Executive Director has the authority to extend the probationary period or to recommend suspension of the Member Agency. A Member Agency's probationary status terminates when one of the following occurs:

1. The Member Agency satisfies the Executive Director that the violation has been rectified; or
2. The Member Agency has been suspended by the Board of Directors.

**Suspension:** A Member Agency may be suspended, without first being placed on probation, if found in violation of #1 above. Depending on the severity, all other violations will normally be preceded by a probationary period for the violation(s) in question. Only the Board of Directors has the authority to suspend Member Agencies. The Executive Director may request a suspension by notifying the Board of Directors in writing and may place a Member Agency on product hold pending the decision by the Board of Directors. During their deliberations, the Board of Directors will provide the Member Agency the opportunity to provide input prior to the suspension decision either personally or in writing. A first suspension shall not exceed one year. Upon suspension, an agency loses all rights and privileges of a Member Agency as well as its status as such. At the end of the suspension period, an agency may re-apply to become a Member Agency of FAKH. If a second suspension becomes necessary, the agency will be permanently terminated.

I have read and understand the above policy.

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Agency Director

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Date