

# Food Service Facts

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# 18. Provisions 1, 2, 3 and Community Eligibility Provision

In an effort to reduce paperwork at the local level, Congress has incorporated into Section 11(a)(1) of the National School Lunch Act four alternative provisions to the normal requirements for annual determinations of eligibility for reduced price and free school meals and daily meal counts by type (paid, reduced price and free meals) at the point of service.

## Special Provision Options: A Comparison

	CEP	Provision 1	Provision 2	Provision 3
Period of Eligibility	Up to 4 years	Up to 2 years	Up to 4 years	Up to 4 years
Eligibility Threshold	40% ISP	80% Free/Reduced	None	None
Program Participation	NSLP & SBP mandatory	NSLP, SBP or both	NSLP, SBP or both	NSLP, SBP or both
Eligibility Determinations	Direct Certification, no applications	Direct Certification and applications	Direct Certification and applications	Direct Certification and applications
Frequency of Application Collection	Never	Every 2 years	Every 4 years, at most	Every 4 years, at most
Frequency of SNAP data match	Annually (at minimum)	Annually (at minimum)	Annually (at minimum)	Annually (at minimum)
Cycle Extensions	Not available	Unlimited, if remains at least 80% Free/Reduced	Unlimited, if no or minimal change in socioeconomic data	Unlimited, if no or minimal change in socioeconomic data
Claiming Percentages	ISP x 1.6	Based on actual claiming percentages in year 1 (base year)	Based on actual claiming percentages in year 1 (base year)	Based on level of Federal aid reimbursed in year 0 (base year)
Non-Federal Funds	Required when Federal assistance does not match or exceed costs	Required when Federal assistance does not match or exceed costs	Required when Federal assistance does not match or exceed costs	Required when Federal assistance does not match or exceed costs
Grouping and District-Wide Elections	Yes	Yes	Yes	Yes
Ideal When...	Many students are certified without application	Over 80% Free/Reduced	Many students are low-income, but cannot be directly certified	Very stable or fixed population

## Key Regulations

Special Provision	CEP	Provision 1	Provision 2	Provision 3
Provision Requirement	245.9(f)	245.9(a)	245.9(b)	245.9(d)
Training & Technical Assistance	7 CFR 210.19(a)(3)	7 CFR 210.19(a)(3)	7 CFR 210.19(a)(3)	7 CFR 210.19(a)(3)
Permanent Policy Statement	7 CFR 245.9(g)	7 CFR 245.9(g)	7 CFR 245.9(g)	7 CFR 245.9(g)
Cycle Extensions / Grace Year	7 CFR 245.9(f)(4)(ix)	N/A	245.9(c)	245.9(e)

### Provision 1

- ◆ This Provision reduces application burdens by allowing free eligibility to be certified for a 2-year period.
- ◆ In schools where at least 80 percent of the children enrolled are eligible for reduced price or free meals, annual notification of program availability and certification of children eligible for free meals may be reduced to once every 2 consecutive school years. All other households must be provided a meal application and are allowed to apply for meal benefits each school year. There is no requirement to serve meals at no charge to all students.
- ◆ Schools must continue to record daily meal counts of the number of meals served to children by type as the basis for calculating reimbursement claims.
- ◆ Provision 1 has been an option for schools since publication of regulations in 1980.

### Provision 2

- ◆ This Provision reduces application burdens and simplifies meal counting and claiming procedures. It allows schools to establish claiming percentages and to serve all meals at no charge for a 4-year period.
- ◆ Schools must serve meals to all participating children at no charge for a period of 4 years. During the first year, or base year, the school makes eligibility determinations and takes meal counts by type. During the next 3 years, the school makes no new eligibility determinations and counts only the total number of reimbursable meals served each day. Reimbursement during these years is determined by applying the percentages of paid, reduced price and free meals served during the corresponding month of the base year to the total meal count for the claiming month. The base year is included as part of the 4 years.
- ◆ At the end of each 4-year period, the State agency may approve 4 year extensions if the income level of the school’s population remains stable.

- ◆ Schools electing this alternative must pay the difference between Federal reimbursement and the cost of providing all meals at no charge. The money to pay for this difference must be from sources other than Federal funds.
- ◆ Provision 2 has been an option for schools since publication of regulations in 1980.

## **Provision 3**

- ◆ This Provision reduces application burdens and meal counting and claiming procedures. It allows schools to simply receive the same level of Federal cash and commodity assistance each year, with some adjustments, for a 4 year period.
- ◆ Schools must serve meals to all participating children at no charge for a period of 4 years. These schools do not make additional eligibility determinations. Instead, they receive the level of Federal cash and commodity support paid to them for the last year in which they made eligibility determinations and meal counts by type, this is the base year. For each of the 4 years, the level of Federal cash and commodity support is adjusted to reflect changes in enrollment and inflation. The base year is not included as part of the 4 years.
- ◆ At the end of each 4-year period, the State agency may approve 4 year extensions if the income level of the school's population remains stable.
- ◆ Schools electing this alternative must pay the difference between Federal reimbursement and the cost of providing all meals at no charge. The money to pay for this difference must be from sources other than Federal funds.
- ◆ Provision 3 has been an option for schools since 1995 through an implementing memorandum.

## **Community Eligibility Provision**

Community Eligibility Provision is an innovative provision that allows high need schools to serve free meals to all students while alleviating some administrative burden. Community eligibility allows for a healthier student body and a healthier school meal budget. Below are just a few of the advantages:

- ◆ Community eligibility will increase participation of children in the school meal programs.
- ◆ Community eligibility will reduce administrative costs related to tracking students based on their meal eligibility status. As a result of expanded student participation and reductions in administrative work, there will be stronger school nutrition programs overall.
- ◆ Community eligibility will afford schools the ability to no longer collect payments or use swipe cards or other systems during the meal service.
- ◆ Community eligibility requires schools to serve universal free school breakfast, and it is a great way to facilitate the adoption of innovative breakfast models, such as Breakfast in the Classroom.
- ◆ Community eligibility can reduce stigma because all students are eating meals at no charge, regardless of their income status. And, studies show that well-nourished children are able to focus in class and ultimately do better in school.

***What is Community Eligibility Provision or CEP?***

Section 104(a) of the Healthy, Hunger-Free Kids Act of 2010 (Act) amended section 11(a)(1) of the Richard B. Russell National School Lunch Act to provide an alternative that eliminates the need for household applications for free and reduced-price meals in high-poverty Sponsors and schools. This alternative, which is now part of the NSLP, is referred to as the Community Eligibility Provision (CEP).

To be eligible, Sponsors and/or schools must meet a minimum level of “identified students” for free meals in the year prior to implementing Community Eligibility; agree to serve free breakfasts and lunches to all students; and agree to cover with non-Federal funds any costs of providing free meals to students above the amounts provided by Federal assistance. Reimbursement for each Sponsor or school is based on claiming percentages derived from the percentage of identified students, i.e., students certified for free meals through means other than individual household applications. The claiming percentages established in the first year for a Sponsor or school may be used for four school years and may be increased if the percentage of identified students rises for the Sponsor or school.

This program requires schools to offer breakfast and lunch but will allow individual schools to count and claim meals without the normal free and reduced application process. Schools that participate in CEP will no longer be required to collect Applications for Free and Reduced Price School Meals to determine student eligibility for free meals. Meals will still need to be counted at the Point of Service (POS), but just the total meals, not meals by category. Households must be notified that the school is participating in CEP using Form 18-A.

***How can a district qualify?***

Any school building that has a percentage of “identified students” of 40 percent or more, according to the data reported as of April 1, will be eligible to participate.

The percentage is calculated by taking all “Identified students” (students directly certified through FA, TAF, FDPIR, Medicaid, Foster; children experiencing homelessness and on the local liaison’s list; Head Start children; migrant youth; runaways; and non-applicants approved by local officials). Districts can participate in a variety of ways: by individual school building direct certification rate, groups of schools’ direct certification rate, or by an entire district’s direct certification rate.

***How can a district prepare for the upcoming school year?***

Agree to accurately determine the identified student percentage for the Sponsor or each eligible school or group(s) of schools as of **April 1** for the upcoming school year and if eligible to participate complete the CEP application in KN-CLAIM to participate.

***Do districts need to re-apply every year?***

Once a Sponsor or school is approved, it may participate in the program for the duration of four consecutive years without having to reapply. However, if a Sponsor or school is not at 100 percent free reimbursement, it may provide a new set of direct certification numbers to KSDE for approval each year to increase the reimbursement percentage.

***When is an Local Educational Agency (LEA) permitted to end participation in CEP?***

An LEA may terminate participation in CEP at any time. An LEA electing to end participation in CEP must notify its State agency and either enroll in another special Provision or return to standard application and counting and claiming procedures. Schools considering ending use of CEP should consult with their State agency immediately so the State agency can proactively provide technical assistance. An overview of requirements for LEAs opting to restore standard counting and claiming procedures is included at 7 CFR 245.9(j).

As stated in regulation, LEAs must offer all students reimbursable, free meals for a period of at least 30 operating days following the date of restoration of standard procedures or until a new eligibility determination is made, whichever comes first. Additionally, LEAs must notify the public of the mid-year resumption of standard counting and claiming procedures.

## **Determining Eligibility**

### ***What is direct certification?***

Direct certification means determining children eligible for free meals benefits based on documentation obtained directly from the appropriate State or local agency or other authorized individual. In most situations, direct certification of a child's eligibility status should not involve the household. The communication exchange should be between an appropriate agency and the Sponsor/school.

### ***What are the methods for calculating the Identified Student Percentage rate for a district, school, and group of schools within a Sponsor?***

The "identified students" rate is calculated by taking the total number directly certified students (plus migrant, homeless, runaway, head start and foster students, if not already included in the direct certification list) and dividing that number by the number of students with access to school lunch or breakfast (in most cases, equal to enrollment).

Districts can report the entire district, a single school, group(s) of schools or any combination of single schools and group(s) of schools. If it is a group or the entire district, the rate is the aggregate of the buildings.

## **Counting, Claiming, and Reimbursement**

### ***How will Sponsors be reimbursed for meals if the calculated participation rate is less than 100%?***

Currently, schools will be reimbursed by multiplying their "identified student" rate by the USDA authorized factor of 1.6 to determine the percentage of free meals. If the percentage is less than 100 percent, the remaining percentage will be reimbursed at the paid rate.

### ***CEP Claiming Example:***

A school with 50 percent Identified Students would be reimbursed at the free rate for 80 percent of the breakfasts and lunches it served ( $50\% \times 1.6 = 80\%$ ) and the remaining 20 percent would be reimbursed at the paid rate.

Districts with direct certification rates between 40 and 62 percent may be required to pay, from sources other than federal funds, the costs of serving breakfasts and lunches that are in excess of the federal assistance received, including federal cash reimbursement.

## **Transfers and Carryover Eligibility Provision Schools**

If a student moves from a provision school to a non-provision school within the same LEA during the school year (transfer) or between school years (carryover), the student receives free meals for up to 30 days, or until a new eligibility determination is made, whichever comes first.

If the student moves from a provision school to a non-provision school in a different LEA during the school year (transfer) or between school years (carryover), the student may receive free meals for up to 30 days, or until a new eligibility determination is made, whichever comes first.

### **Other Federal and State Funding**

Most local school officials are aware that a number of federal and state programs use eligibility for free and reduced price meals under the NSLP as the basis for low income enrollment status. Districts adopting the Community Eligibility Provision will need to make some reporting adjustments to ensure that they continue to receive their full entitlements under these programs.

- ◆ For Title I funding, the US Department of Education has issued detailed guidance on options available to local districts for calculating low income enrollment. See <http://www.fns.usda.gov/sites/default/files/SP19-2014os.pdf>.
- ◆ For State Programs, Sponsors will need to collect the KSDE Household Economic Survey for those students not on the Direct Certification list.

### **Resources**

Additional information about the Community Eligibility Provision is available at USDA, <https://www.fns.usda.gov/cn/community-eligibility-provision>