



**United States
Department**

Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive
Alexandria,

22302-1500

DATE: July 25, 2014

MEMO CODE: SP 21-2014 (v.2)

SUBJECT: Community Eligibility Provision: Guidance and Q&As - Revised

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

This memorandum provides guidance and Q&As that address common questions as the Community Eligibility Provision is implemented nationwide.

Section 104(a) of the Healthy, Hunger Free Kids Act of 2010 (HHFKA) amended section 11(a)(1) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1759a(a)(1)) to provide an alternative to household applications for free and reduced price meals in local educational agencies (LEAs) and schools in high poverty areas. This alternative is the Community Eligibility Provision (CEP).

The HHFKA required the CEP be phased in over a period of three years, beginning July 1, 2011. In School Year 2013-2014, the CEP was available in eligible LEAs and schools in Illinois, Kentucky, Michigan, New York, Ohio, District of Columbia, West Virginia, Florida, Georgia, Maryland, and Massachusetts. As of July 1, 2014, the CEP is available nationwide.

The proposed rule "*National School Lunch Program and School Breakfast Program: Eliminating Applications Through Community Eligibility as Required by the Healthy, Hunger-Free Kids Act of 2010*" was published November 14, 2013, and comments were accepted until January 3, 2014. Comments are being reviewed, and a final rule is under development. Until a final rule is published, this and other guidance from the Food and Nutrition Service are the implementing guidance.

To be eligible, LEAs and/or schools must: meet a minimum level (40%) of identified students for free meals in the year prior to implementing the CEP; agree to serve free lunches **and** breakfasts to all students; not collect free and reduced price applications from households in participating schools; and agree to cover with non-Federal funds any costs of providing free meals to all students above amounts provided in Federal assistance.

Reimbursement is based on claiming percentages derived from the identified student percentages (ISPs).

The *Identified Students* are students certified for free meals through means other than individual household applications; this primarily includes students who are directly certified for free meals on the basis of their participation in the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and the Food Distribution Program on Indian Reservations (FDPIR). It also includes homeless, runaway, Head Start, Even Start, and migrant youth. It does not include students who are categorically eligible based on submission of a free and reduced price application.

The claiming percentages established for a school in the first year may be used for a period of four school years and may be increased each year if the ISPs rise for the LEA and/or school. The percentage of identified students is multiplied by a factor of 1.6 to determine the total percentage of meals reimbursed at the Federal free reimbursement rate (The percentage derived from this calculation must not exceed 100 percent). The remaining percentage of meals, up to 100 percent, is reimbursed at the Federal paid reimbursement rate. Schools apply the claiming percentages to the total number of lunch and the total number of breakfast meals served to determine the number of meals claimed at the free and paid rates.

An LEA may participate in the CEP for all schools in the LEA, or only some schools, depending on the eligibility of individual schools and financial considerations based on the anticipated level of Federal reimbursement and other non-Federal support that may be available to cover any meal costs in excess of the Federal reimbursement. Participating schools that continue to meet the minimum direct certification percentage may immediately begin another four-year cycle after the initial cycle concludes. For participating schools falling below the minimum percentage at the end of their four-year cycle, there is the possibility to continue to participate for a "grace year." A participating LEA or school may stop participating in the CEP during the four-year cycle by notifying the State agency no later than June 30 of the school year prior to when they want to return to normal counting and claiming procedures. This will allow sufficient time for the LEA to prepare for the certification process in the coming school year.

Questions and Answers are attached to this memorandum. New questions are preceded by three asterisks (***). As additional Questions and Answers arise during the nationwide implementation, they will be added to this memorandum.

Regional Directors
State Directors
Page 3

State agencies are reminded to distribute this memorandum and attachment to program operators immediately. Local educational agencies, school food authorities, and other program operators should direct any questions concerning this guidance to their State agency. State agencies with questions should contact the appropriate FNS Regional office.

Original Signed

Cynthia Long
Deputy Administrator
Child Nutrition Programs

Attachment