

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 12 PUBLIC SCHOOL ADMINISTRATION - HEALTH AND SAFETY
PART 16 HEALTHY UNIVERSAL SCHOOL MEALS

6.12.16.1 ISSUING AGENCY: Public Education Department, hereinafter the department.
[6.12.16.1 NMAC – N, 9/24/2024]

6.12.16.2 SCOPE: All school food authorities that operate the national school lunch program and the school breakfast program.
[6.12.16.2 NMAC – N, 9/24/2024]

6.12.16.3 STATUTORY AUTHORITY: Sections 9-24-8, 22-2-1, 22-2-2, 22-13-13, 22-13-13.2, and 22-13C-1 et seq. NMSA 1978.
[6.12.16.3 NMAC – N, 9/24/2024]

6.12.16.4 DURATION: Permanent.
[6.12.16.4 NMAC – N, 9/24/2024]

6.12.16.5 EFFECTIVE DATE: September 24, 2024, unless a later date is cited in the history note at the end of a section.
[6.12.16.5 NMAC – N, 9/24/2024]

6.12.16.6 OBJECTIVE: To establish the accountability measures and procedures for certification to implement the Healthy, Hunger-Free Students' Bill of Rights Act, Section 22-13C-1 et seq. NMSA 1978.
[6.12.16.6 NMAC – N, 9/24/2024]

6.12.16.7 DEFINITIONS:

A. "Eligible meals" means meals served to full-price, paid students that qualify for reimbursement under the national school lunch program (NSLP) and the school breakfast program (SBP).

B. "Federal free meal reimbursement" means the free meal reimbursement paid by the United States Department of Agriculture (USDA) under 42 U.S.C. 1759a for meals that qualify for reimbursement pursuant to the national school lunch program and the school breakfast program.

C. "Federal paid meal reimbursement rate" means the paid reimbursement rate as set annually by the USDA under 42 U.S.C. 1759a for meals that qualify for reimbursement under the NSLP and the SBP.

D. "Freshly prepared" means meal pattern components that are prepared and cooked for same day consumption utilizing scratch cooking or speed scratch preparation methods.

E. "Healthy universal school meals program" means the universal school meals for children program created pursuant to the Healthy Hunger-Free Students' Bill of Rights Act.

F. "Meal pattern components" means food groups established by the USDA in 7 C.F.R. § 226.20 to provide the basis for the NSLP and SBP meal patterns, each component of which is based on the nutrient content of the food items in each category, which shall include meats or meat alternates, grains, fruits, vegetables, and milk.

G. "Meal quality improvement requirements" means performance standards created to improve school meal quality pursuant to the Healthy Hunger-Free Students' Bill of Rights Act.

H. "National school lunch program" or "NSLP" means the federally assisted meal program that provides nutritious, low-cost, or free lunches to children in public schools, private schools, and residential childcare institutions.

I. "Paid meal rate" means the paid student rate reported by the department to the USDA based on the average paid meal rate charged by school food authorities in the prior school year.

J. "Reimbursable meal line" means the designated area in a school where students queue to receive meals that are eligible for reimbursement.

K. "School breakfast program" or "SBP" means the federally assisted meal program that provides reimbursement to states to operate nonprofit breakfast programs in public schools, private schools, and residential childcare institutions.

L. “**School food authority**” means public school districts, charter schools, Bureau of Indian Education schools, tribally controlled schools, and private schools that operate the NSLP and the SBP.

M. “**Scratch cooking**” means the use of whole, fresh ingredients that may include, but are not limited to, raw proteins, whole grains, and fresh fruits and vegetables. This preparation method omits the utilization of premade commercial food products.

N. “**Speed scratch**” means the blending of fresh ingredients together with pre-prepared and ready-made minimally processed ingredients that are processed in a way that does not fundamentally alter the product and does not substantially change the nutritional content, to prepare a meal for same day consumption.

O. “**Unprocessed and minimally processed products**” means raw or frozen products, products that retain their inherent character, such as shredded carrots or ground beef, and dried products, such as beans, but does not include any products that are heated, cooked or canned.

P. “**Value-added processed products**” means products that are altered from their unprocessed or minimally processed state through preservation techniques, including cooking, baking, or canning.

[6.12.16.7 NMAC – N, 9/24/2024]

6.12.16.8 REQUIREMENTS:

A. All public schools that operate the NSLP and the SBP shall establish a healthy universal school meals program.

B. Bureau of Indian education schools, tribally controlled schools, and private schools that operate the NSLP and the SBP may establish a healthy universal school meals program to offer high-quality meals at no charge to students provided that state and federal funding is available, and the school complies with applicable state and federal laws.

C. Each school food authority that establishes a healthy universal school meals program shall seek to achieve certification for meal quality improvement requirements by July 1, 2025.

D. Meal quality improvement requirements shall include the following:

(1) Fifty percent of all weekly required meal pattern components, with the exception of milk, shall be freshly prepared; and

(a) to determine the quantity of meal pattern components necessary to meet requirements, school food authorities must calculate the weekly total of each required component, per grade grouping, for breakfast and lunch;

(b) Fifty percent of the total number of weekly components per meal pattern component category shall be freshly prepared;

(c) if any site in a school food authority operates more than one reimbursable meal line, the fifty percent requirement of freshly prepared meal pattern components must be met for each reimbursable meal line.

(2) Achievement of the lowest level of food waste, by:

(a) permitting students in grades kindergarten through five to have up to twenty minutes of seated lunch time each school day to provide lunch periods that are sufficiently long to give all students adequate time to eat; and

(b) requiring share tables be provided where food service staff, students, and parents may return allowable food; allowable food placed on the share tables that is not taken by a student during the course of a regular school meal period shall be donated to students, food banks, or other nonprofit charitable organizations.

(3) Utilization of New Mexico-grown foods, pursuant to the following:

(a) school food authorities are eligible to receive an incentive grant pursuant to this section to purchase New Mexico-grown, -raised, or -processed products;

(b) participating school food authorities may use the amount received pursuant to this paragraph to support implementation of meal quality improvement requirements;

(c) school food authorities shall use the money received pursuant to this section to purchase New Mexico-grown, -raised, or -processed products, with a minimum of seventy-five percent of funds used to purchase unprocessed and minimally processed products, and with up to twenty-five percent of funds that may be used to purchase value-added processed products;

(d) by August 1 of each year, subject to available appropriations, the department shall distribute to each participating school food authority the greater of one thousand dollars or an amount equal to

ten cents multiplied by the number of lunches that qualified for federal free meal reimbursement that the participating school food authority served to students in the preceding school year; and

(e) when calculating the amount of program funding that is due to a school food authority, the department shall assume that student participation will remain at the same level as the previous year.
[6.12.16.8 NMAC – N, 9/24/2024]

6.12.16.9 ANNUAL CERTIFICATION PROCEDURES:

A. Each school food authority that operates the healthy universal school meals program shall submit to the department for approval annual certification documentation.

B. Beginning in 2025, the annual certification documentation for the healthy universal school meals program shall be submitted by a date to be determined by the department, and shall include the following components:

(1) breakfast and lunch menus, production records, recipes, and food labels for the selected review period, as determined by the department;

(2) subject to available appropriations, documentation that New Mexico-grown foods were purchased and utilized to improve meal quality;

(3) documentation that student and family feedback was considered in menu development and recipe improvements; and

(4) documentation of efforts to minimize food waste.

C. The department may contact a school food authority to schedule an on-site visit for monitoring purposes.

[6.12.16.9 NMAC – N, 9/24/2024]

6.12.16.10 FUNDING DISTRIBUTION:

A. The department shall distribute funding to each school food authority that establishes a healthy universal school meals program:

(1) In school year 2024-2025, the department shall distribute to each such school food authority an amount that is equal to the federal free meal reimbursement rate multiplied by the total number of eligible meals served during the applicable budget year, minus an amount equal to the federal paid meal reimbursement for eligible meal served during the applicable budget year.

(2) Beginning in school year 2025-2026, to school food authorities that meet meal quality improvement requirements by July 1 each year, the department shall distribute an amount that is equal to the federal free meal reimbursement rate multiplied by the total number of eligible meals served during the applicable budget year, minus an amount equal to the federal paid meal reimbursement for eligible meals served during the applicable budget year.

(3) Beginning in school year 2025-2026, to school food authorities that do not meet meal quality improvement requirements by July 1 each year, the department shall distribute an amount that is equal to the paid meal rate multiplied by the total number of eligible meals served during the applicable budget year.

B. School food authorities shall use funding to purchase commodities necessary to improve meal quality, including food and other consumables, equipment, staffing, labor needs, or training and technical assistance.

[6.12.16.10 NMAC – N, 9/24/2024]

HISTORY OF 6.12.16 NMAC: [RESERVED]