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SUSANA MARTINEZ
GOVERNOR

October 13, 2017

MEMORANDUM

TO: Superintendents
Charter School Administrators
Bureau of Indian Education Administrators
Private and Parochial School Administrators

FROM: Michael Chavez, Director, Student Success and Wellness Bureau

RE: **Supplemental guidance on the New Mexico's "Hunger-Free Students' Bill of Rights Act" and USDA's Unpaid Meal Charges: Local Meal Charge Policies effective July 1, 2017**

On June 30, 2017 the Public Education Department (PED) sent out a memorandum to provide further guidance on the New Mexico's "Hunger-Free Students' Bill of Rights" that was signed into law by the Honorable Governor Susana Martinez. The purpose of this memorandum is to provide you with additional guidance and flexibilities granted by the United States Department of Agriculture (USDA) that may help the Local Educational Agency (LEA) officials decrease school meal debt. This memorandum will provide you with information regarding the USDA SP 11-2014; CACFP 06-201-; SFSP 11-2014 *Effective Date of Free or Reduced Price Meal Eligibility Determinations*, effective December 3, 2013. For specific requirements on the local policy requirements see <https://www.fns.usda.gov/effective-date-free-or-reduced-price-meal-eligibility-determinations>.

As stated in the June 30th memorandum, State and school districts are required to have policies in place that address unpaid meal charges. Schools participating in the National School Lunch Program or School Breakfast Program are required to continue to directly certify students and determine if students are categorically eligible for free meals. School meal eligibility requirements for school districts and schools were listed in the June 30th memorandum along with current provisions of school meals; however, it does not discuss the interim period where a school is awaiting the submission of an application to determine whether a student qualifies for a free or reduced meal.

In the USDA's manual on 'Overcoming the Unpaid Meal Challenge' from May 2017 (page 18) <https://fns-prod.azureedge.net/sites/default/files/cn/SP29-2017a1.pdf>, it discusses this the school policy and further addresses the flexibility for household applications stating that *LEAs may establish the date of an application's submission as the effective date of eligibility, rather than the date the officials approve it. LEAs may use this flexibility when processing household income applications and when waiting for documentation of other source categorical eligibility (e.g. for homeless or migrant children) indicated on a household application. LEAs exercising this flexibility must have a method to document the date the application was submitted, such as a date stamp.*

USDA guidance memorandums and procedures are allowing schools to retroactively provide benefits up to the point of the submission of an application that is subsequently determined to be free or reduced. If an LEA chooses this method, it must apply it to all students and return any money paid by a student/family. LEAs or schools that allow this flexibility could forgive appropriate debts for students who are determined to be free or reduced and then claim those meals as either free or reduced in their claim. This is only allowable if the claim falls within the claim adjustment period or if the claim has not yet been submitted. These LEAs should continue to submit their current month claims normally and follow State agency procedures for adjusting claims after initial submission. In addition, State agencies must work with these LEAs to ensure the proper implementation of the flexibility and the accuracy of the LEA's adjusted claims.

Use of this flexibility is at the LEA's discretion; however, an LEA implementing this flexibility must notify its State agency. In case of an Administrative Review, the LEA must be able show dated documentation of when the application was submitted.

If you have any questions, please don't hesitate to call the Student Success and Wellness Bureau at (505) 827-1821.