

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, 7/1/2024]

6.12.16.2 SCOPE: All school districts and charter schools, bureau of Indian education schools, tribally controlled schools, state-supported schools, state-sponsored schools, private schools, and residential childcare institutions that operate the national school lunch program and the school breakfast program.
[6.12.16.2 NMAC – N, 7/1/2024]

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, 7/1/2024]

6.12.16.4 DURATION: Permanent.
[6.12.16.4 NMAC – N, 7/1/2024]

6.12.16.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited in the history note at the end of a section.
[6.12.16.5 NMAC – N, 7/1/2024]

6.12.16.6 OBJECTIVE: To establish the standards 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, 7/1/2024]

6.12.16.7 DEFINITIONS:

- A. "Allowable food"** means food items that are unopened and without defects.
- B. "Central kitchen"** means a kitchen that consolidates processing and cooking of school meals, after which the prepared meals are transported to onsite school kitchens.
- C. "Eligible meals"** means meals served to full-price, paid students that qualify for reimbursement under the national school lunch program and the school breakfast program.
- D. "Federal free meal reimbursement"** means the free meal reimbursement paid by the 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.
- E. "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 national school lunch program and the school breakfast program.
- F. "Food service management company"** means a company which a school food authority may contract with to manage its food service operations in one or more of its schools.
- G. "Healthy universal school meals program"** means the meals program created pursuant to the Healthy Hunger-Free Students' Bill of Rights Act.
- H. "National school lunch program"** 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. "Participating school food authority"** means a school food authority that chooses to participate in the New Mexico grown grant program.
- K. "School breakfast program"** means the federally assisted meal program that provides reimbursement to states to operate nonprofit breakfast programs in schools and residential childcare institutions.
- L. "School food authority"** means school districts, charter schools, the United States department of the interior's bureau of Indian education schools, tribally controlled schools, and private schools that operate the national school lunch program and the school breakfast program.
[6.12.16.7 NMAC – N, 7/1/2024]

6.12.16.8 HEALTHY UNIVERSAL SCHOOL MEALS PROGRAM REQUIREMENTS:

A. All public schools shall establish a healthy universal school meals program, pursuant to Section 22-13C-1 et seq. NMSA 1978.

B. Bureau of Indian education schools, tribally controlled schools, and private schools 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.

[6.12.16.8 NMAC – N, 7/01/2024]

6.12.16.9 CERTIFICATION OF HEALTHY UNIVERSAL SCHOOL MEALS PROGRAMS: School food authorities running a healthy universal school meals program shall submit to the department annually a certification that attests that required performance measures are met. Beginning July 1, 2025, the certification of compliance shall include assurances that performance measures will have been met on or before July 1.

A. Eligible and participating schools and school food authorities shall follow certification deadlines as established by the department.

B. Non-compliance with annual assurances shall result in a lower rate of reimbursement for school food authorities pursuant to department guidance.

C. The certification shall include the total meals served in the previous year and other supportive documentation from approved reviewers. Supportive documentation may include, but is not limited to, menus, student satisfaction assessments, and internal audits conducted by non-student nutrition personnel.

[6.12.16.9 NMAC – N, 7/1/2024]

6.12.16.10 COMPLIANCE WITH PERFORMANCE MEASURES FOR CERTIFICATION:

A. Certification is demonstrated by compliance with one of two levels.

B. Adherence to level 1 of compliance is demonstrated by the following:

(1) No less than 50 percent of reimbursable national school lunch program and school breakfast program meals, including the entrée and grains, prepared each week, shall be freshly prepared meals at an onsite kitchen prepared by the school food authority, the central kitchen, a vendor, or a food service management company.

(2) School food authorities shall offer at least three items on a weekly basis from New Mexico farms, ranches, or food businesses.

(3) School food authorities shall also adhere to one of the following performance measures:
(a) No less than fifty percent of schools in a school food authority shall grow food on campus with seasonal incorporation of produced food into breakfast, lunch, or snack programs. If a single school is its own school food authority, that school shall grow food on campus with seasonal incorporation of produced food into breakfast, lunch, or snack programs.

(b) No less than fifty percent of schools in a school food authority shall have cafeterias with print or digital resources promoting locally sourced nutrition education. If a single school is its own school food authority, that school shall have at least one cafeteria with print or digital resources promoting locally sourced nutrition education.

(4) School food authorities shall also adhere to the below performance measures:
(a) All students, kindergarten through grade five, shall have up to 20 minutes of seat time to eat lunch, not including time spent walking to or from class, waiting in line, or going to recess. Schools shall provide sufficient lunch periods that are long enough to give all students adequate time to eat.

(b) Share tables shall be provided where food service staff, students, and parents may return unopened allowable food daily at most exit points in the cafeteria.

(c) Schools shall have a system for monthly donation of unused food to students or community-based organizations.

(5) School food authorities shall also adhere to at least one of the following performance measures:

(a) All students, kindergarten through grade five, shall be offered recess before lunch at least two days during the school week.

(b) At least fifty percent of schools in a school food authority shall engage in plate waste studies on a quarterly basis. If a single school is its own school food authority, that school shall engage in plate waste studies on a quarterly basis.

(c) At least fifty percent of schools in a school food authority shall have a composting program in place. If a single school is its own school food authority, that school shall have a composting program in place.

(6) On at least a quarterly basis, school food authorities shall actively engage students and families in food and nutrition services through formal processes to incorporate their feedback within food and nutrition services.

(7) School food authorities shall also adhere to two of the following performance measures.

(a) Empaneling an advisory council that shall consider student and family input and shall meet with school food authority administration on a quarterly basis.

(b) Inviting students and families to provide formal feedback to school leadership on meal quality on a quarterly basis.

(c) Inviting students and families to provide formal feedback to school food authorities on menu design, including the addition of new items, on a quarterly basis.

(d) Schools shall conduct taste tests for both breakfast and lunch menu items on a quarterly basis.

(8) School food authorities shall also adhere to two of the following performance measures.

(a) Schools shall incorporate food and nutrition education into teacher and school staff professional development training on a quarterly basis.

(b) Schools shall monthly include culinary or nutrition education during the school day or during out-of-school time at all elementary and secondary schools.

(c) Schools shall monthly ensure that middle and high school students engage in food preparation for breakfast, lunch, or snacks.

(d) All schools shall have access to nutrition education activities on a quarterly basis.

C. Adherence to level 2 of compliance is demonstrated by the following.

(1) Seventy five percent or greater of reimbursable national school lunch program meals and school breakfast program meals, including the entrée and grains, prepared each week, shall be freshly prepared meals at an onsite kitchen prepared by the school food authority, the central kitchen, vendor, or food service management company.

(2) All school food authorities shall adhere to the below requirements:

(a) All schools shall offer more than four items weekly from New Mexico farms, ranches, or food businesses.

(b) No less than fifty percent of schools shall grow food on campus with monthly incorporation of produced food into breakfast, lunch, or snack programs. If a single school is its own school food authority, that school shall grow food on campus with monthly incorporation of produced food into breakfast, lunch, or snack programs.

(c) No less than fifty percent of schools shall have a comprehensive, schoolwide educational program that provides nutrition education to students. If a single school is its own school food authority, that school shall have a comprehensive, schoolwide educational program that provides nutrition education to students.

(3) All school food authorities shall adhere to the below requirements:

(a) All students, kindergarten through grade five, shall have up to 20 minutes of seat time to eat lunch, not including time spent walking to or from class or waiting in line. Schools shall provide sufficient lunch periods that are long enough to give all students adequate time to eat.

(b) Share tables shall be provided where food service staff, students, and parents may return unopened, allowable food daily at all exit points in the cafeteria.

(c) Schools shall have a system for weekly or daily donation of unused food to students or community-based organizations.

[6.12.16.10 NMAC – N, 7/1/2024]

6.12.16.11 FUNDING DISTRIBUTION:

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

(1) for school food authorities that meet the meal quality improvement requirements established by this rule each year, 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 meals served during the applicable budget year; or

(2) for school food authorities that do not meet the meal quality improvement requirements established by this rule by July 1 each year, the department shall distribute to each such school food authority 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. [6.12.16.11 NMAC – N, 7/1/2024]

HISTORY OF 6.12.16 NMAC: [RESERVED]