


MEMORANDUM

TO: Superintendents, Approved Independent School Heads, Food Service Managers, Business Managers

FROM: Daniel M. French, Ed.D., Secretary 

SUBJECT: Implementation of Act 151 - Universal Meals for School Year 22-23

DATE: July 5, 2022

On May 31, 2022, Governor Scott signed [Act 151 of 2022 \(S. 100\)](#) into law. Act 151 requires that public schools offer universal meals through the Community Eligibility Provision (CEP) (if eligible) or Provision 2 during School Year 2022-2023, and it provides state funding to do so. Act 151 also provides state funding for meals served to publicly funded students at approved independent schools if those schools choose to offer universal meals through CEP or Provision 2. Finally, Act 151 eliminates the exemption process from the [state requirement](#) that all public schools offer the National School Lunch Program (NSLP) and School Breakfast Program (SBP).

This memo provides implementation guidance for Act 151 for Public School and Independent School School Food Authorities (SFAs).

Public School - School Food Authorities

Act 151 of 2022 requires that public schools in Vermont offer breakfast and lunch at no charge to students or households through the SBP and NSLP in School Year 22-23. It provides state funding to cover the cost of “paid” student meals if schools operate [CEP \(if eligible\)](#) or [Provision 2](#), or any other federal option that the Vermont Agency of Education (AOE) determines would draw down the highest amount of federal reimbursement. Barring any additional action by Congress before the start of School Year 22-23, this means that any schools eligible for CEP will need to operate CEP in order to receive the state funding, and all other schools will need to operate Provision 2 in order to receive the state funding.

Some public school SFAs have historically operated meal programs at non-profit independent schools or non-profit Prekindergarten programs as sites under their SFA. The public school SFA takes full responsibility for implementing the federal child nutrition programs at these sites, so state funding under Act 151 will be provided for all paid meals served to students at any site under a public school SFA if the SFA operates CEP or Provision 2 at these sites. Please note that, per federal regulations, for-profit schools or for-profit Prekindergartens may not participate as sites in the federal school meals programs, even under a public or non-profit SFA. For-profit child care centers may participate in the Child and Adult Care Food Program (CACFP) if they

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receive Title XX benefits (child care subsidy) for at least 25 percent of their eligible enrolled participants or 25 percent of licensed capacity, whichever is less, or 25 percent of the eligible enrolled participants qualify for free or reduced price meals. Please see the [Child Care Centers Fact Sheet](#) for more information.

Independent School - School Food Authorities

Act 151 of 2022 does not require that independent schools offer universal meals. However, non-profit approved and recognized independent schools are allowed to participate in the NSLP and SBP and are allowed to operate CEP (if eligible) or Provision 2.

If an approved independent school located in Vermont and participating in the NSLP and SBP offers universal meals (both breakfast and lunch) through [CEP](#) or [Provision 2](#), Act 151 provides state funding to cover the cost of “paid” student meals for students attending on public tuition dollars. This funding is not available to recognized independent schools. The cost of “paid” student meals served to students who are not attending on public tuition dollars must be covered by another source of funds. The most likely source of funds is tuition funding, but donated or fundraised funds could be used as well.

Students attending on public tuition dollars include:

- PreK students attending with tuition funding from Act 166, Universal PreK;
- Students from school districts that provide tuition instead of operating a school at that grade level;
- Special education students attending with public funding to receive services not able to be provided at their public school.

Non-profit approved independent schools that are not currently participating in the NSLP and SBP may apply to the AOE to begin participating. The AOE welcomes additional schools into the program but cautions that the federal regulations surrounding the program are complex, and it will likely take several months to meet the requirements and begin qualifying for federal and state funding. Interested programs should contact Jen Hutchinson at jennifer.hutchinson@vermont.gov or (802) 828-2025.

Please note that, per federal regulations, for-profit schools or for-profit PreKs may not participate as sites in the federal school meals programs, even under a public or non-profit SFA.

Future Years

At end of School Year 22-23, if the Vermont legislature does not act to provide ongoing funding for paid meals, SFAs may return to a traditional pricing program or may continue with their CEP or Provision 2 cycles for up to three additional years using local funding in place of the state funding. After operating universal meals in School Year 22-23, SFAs should have a more accurate estimate of what the funding requirements would be for subsequent years. The requirement that public schools offer universal meals expires at the end of School Year 22-23 unless the legislature acts to extend it.

Planning for CEP

Qualifying for CEP

In order to qualify for CEP, an individual school building (site), a group of school buildings (sites) or the entire SFA must demonstrate that at least 40% of their students are directly certified for free school meals. Please note, the percentage of directly certified students (known as the identified student percentage or ISP) is not the same as the percentage of students who are eligible for free and reduced price meals. Directly certified students are a subset of the students who qualify for free and reduced price meals. Groups of schools within an SFA or the entire SFA may be averaged together as long as the average ISP of the group is above 40%.

Meal Counting in CEP

Schools participating in CEP do not need to track the names of students who eat reimbursable meals. Meal counts must still be taken at the point of service (POS); however, tick sheets can be used to count the number of reimbursable meals served to students. In general, the meal counting procedures allowed during the COVID-19 waivers can be used for schools operating CEP.

Federal Funding for Meals Served in CEP

As schools participating in CEP are not required to track meals served by student name, the SFA will report the total number of reimbursable breakfasts and lunches served on the monthly claim for reimbursement in the Harvest Child Nutrition System. The Harvest Child Nutrition System will multiply the ISP by 1.6, and then multiply the result by the number of meals served to determine the number of meals reimbursed by the federal government at the “free” reimbursement rate. The remaining meals will be reimbursed by the federal government at the “paid” reimbursement rate. If the ISP is 62.5% or higher than 100% of the meals will be reimbursed by the federal government at the free reimbursement rate. All meals would be reimbursed at the free rate because an ISP of 62.5% multiplied by 1.6 is 100%.

State Funding for Meals Service in CEP – Public SFAs

The State of Vermont will provide an additional reimbursement, known as the Universal Meals Supplement, for every “paid” meal served. This additional reimbursement will equal the amount between the “paid” and the “free” reimbursement rate. Effectively, this means that the SFA will receive the “free” reimbursement rate for every reimbursable meal served. State and federal funds will be paid out at the same time when the SFA submits the monthly claim for reimbursement in the Harvest Child Nutrition System. If the ISP is 62.5% or higher, the SFA will not receive the Universal Meals Supplement funding as all meals will receive the “free” reimbursement rate from the federal government.

State Funding for Meals Served in CEP – Approved Independent School SFAs

On the monthly claim for reimbursement, the approved independent school SFAs participating in CEP will be asked to report the number of publicly funded students enrolled as of the end of that month. The Harvest Child Nutrition System will multiply this reported number by the current enrollment to determine the *percentage* of students who are publicly funded. The result will be multiplied by the number of “paid” meals to determine the number of paid meals that will receive the Universal Meals Supplement. If the ISP is 62.5% or higher, the SFA will not receive the Universal Meals Supplement funding as all meals will receive the “free” reimbursement from the federal government.

Measuring Student Poverty for Educational Purposes in CEP Schools

Schools operating CEP may not collect free and reduced meal applications. For purposes of reporting school-level poverty data (which is used for purposes such as Title I eligibility), the school may use the ISP of the building x 1.6 as a proxy for their free and reduced eligibility percentage. For determining individual student-level poverty data (used for non-child nutrition program purposes such as to determine eligibility for individual educational benefits such as Early College stipends), the school may collect the [Household Income Form](#) (HIF). The HIF may also be used in lieu of the multiplier along with direct certification information for school-level poverty reporting. Funds from the non-profit school food service account may not be used to pay for collection and processing of the Household Income Form, as it is not needed for the child nutrition programs. More information on calculating poverty for educational purposes in SY22-23 is forthcoming from the Agency of Education.

Next Steps for CEP

- The AOE has published [2022-2023 CEP SFA and School Notification Report](#), which is a list of schools and SFAs that are eligible to participate in CEP based on the data reported.
- AOE will reach out to eligible SFAs requesting a sample of the backup documentation to support the data reported, and we will provide a template “Intent to Participate in CEP” letter for the SFA to complete. The Intent to Participate will indicate how the SFA plans to group sites within the SFA, if applicable.
- Within the Program Participation tab of the Site Application(s) in the Harvest Child Nutrition System Application for School Nutrition Programs, the SFA should indicate the site(s) that will be participating in CEP.
- Attend [CEP training](#) at Child Nutrition Summer Institute.
- CEP schools should not collect free and reduced meal applications in School Year 22-23.
- CEP schools should count the total number of reimbursable meals served at the point of service (POS), but do not need to count meals by student status.

Planning for Provision 2

Provision 2 Operation

All public schools not eligible to participate in CEP will need to operate Provision 2 to comply with Act 151. Independent school SFAs may operate Provision 2.

Please note, schools establishing a base year in School Year 22-23 should choose annual claiming and delayed implementation is not allowed in School Year 22-23.

Unless the school is continuing with a previously established Provision 2 cycle, they will need to request that households submit free and reduced meal applications in School Year 22-23. The free and reduced meal application updates annually on July 1. The AOE made the [Application for Free and Reduced Price School Meals 2022-2023](#) available to schools in late June, and schools may begin providing it to households as of July 1.. All public school SFAs and independent school SFAs operating Provision 2 in a base year should use the accompanying [Non-Pricing Meal Application Cover Letter and Instructions 2022-2023](#). This template letter encourages households to return applications even though meals are free. The AOE will also translate the letter into additional languages.

Meal Counting in Provision 2

In the first year of Provision 2, the school will need to count meals served by student status. This is a change from how meal counts have likely been conducted during the COVID-19 waivers, when only the total number of meals served need to be counted. Schools should plan to return to using their previous point of service meal counting methods (such as electronic POS systems with pin numbers or ID cards, or paper rosters), which record exactly which students have taken meals.

In the first year of Provision 2 students are not charged for meals, however the claim for reimbursement submitted to the AOE in the Harvest Child Nutrition System will need to identify the number of free, reduced and paid status meals served to students each month. This will create the school's "claiming percentages."

If the school continues with Provision 2 in subsequent years, they will not need to collect applications or count meals by student status in Years 2-4. Instead, they will count the total number of reimbursable student meals served. The claiming percentages from the first year – the percentage of free, reduced and paid students who ate meals in Year 1 – will be applied to the total number of meals served in Years 2-4.

By the end of Year 1, the claiming percentages for each school will have been established, and it will be easier to calculate the total potential costs of continuing with Provision 2 for that building.

Federal Funding for Meals Served in Provision 2

Schools will receive the federal reimbursement rate for free, reduced and paid meals from federal funds.

The state will continue to provide state funding to cover the student share of all reduced-price meals. In addition, in School Year 22-23, the state will provide an additional reimbursement, the Universal Meals Supplement, equal to the amount between the “paid” and the “free” reimbursement rate for every “paid” meal. Effectively, this means that the SFA will receive the “free” reimbursement rate for every reimbursable meal served. State and federal funds will be paid out at the same time when the school submits the monthly claim for reimbursement in the Harvest Child Nutrition System.

Encouraging Households to Submit Applications in Provision 2

Schools may find that households are reluctant to submit free and reduced meal applications because free meals are provided to all students. The template letter to households for use by Provision 2 schools asks households to return the application to help the school continue to provide free meals in future years. In addition, messaging to households could include:

- Returning the application helps the community become eligible for free summer meals for all children in Summer 2023 and beyond.
- Returning the application helps child care programs in the community become eligible for free meals for children in those programs.
- Returning the application by August 19, 2022, may make the household eligible to receive Summer 2022 P-EBT benefits for any children who were enrolled in June 2022. This is a benefit of \$391 per student.
- Returning the application helps the *school* become eligible for other federal and state educational funds which are based on school poverty levels, including Title I funding, 21st Century summer and afterschool program funding, etc.
- Returning the application also may enable the *student* to qualify for other benefits such as Early College and Dual Enrollment stipends.
- Additional information on strategies to encourage families to continue to complete the free and reduced-price meal applications (and HIF forms) is forthcoming from the Agency of Education.

Schools should also take measures to make returning the application as easy as possible for households. These include:

- Providing an electronic free and reduced meal application in addition to a paper application. Many point of sale (POS) or student information systems have an electronic application available as an option. These have been shown to help with application return rates. If using an electronic application, AOE Child Nutrition Programs will need to review it prior to implementation.
- Providing self-addressed, stamped envelopes to return the application to the determining official directly.
- Providing translations of the letter to households, instructions and applications when needed. Contact AOE Child Nutrition Programs if you need additional translations.
- Offering an opportunity to complete the application with assistance at school events, such as open houses, back to school nights and kindergarten registration.

- Providing the application at additional points later in the year, such as after winter break.
- Providing the application to all households any time a large employer announces layoffs or furloughs, or there are other significant impacts on local economic conditions.
- Ensuring that the application is included in the registration packet for all new students.

Measuring Student Poverty in Provision 2 Schools

During Year 1 of Provision 2, schools will have free and reduced-price meal information for each student and may continue to use this information to calculate school-wide free and reduced-price percentages and as a metric of individual student poverty. In Fall 2023, free and reduced-price eligibility from School Year 19-20, 20-21 and 21-22 will carry over for the first 30 operating days, unless a more recent application has been submitted. Usually, the thirtieth operating day occurs in mid-October; after October 1 data about student poverty is collected by the AOE for uses outside of the child nutrition programs. This should lessen the impact of universal meals on free and reduced eligibility data for non-child nutrition uses in School Year 22-23.

Next Steps for Provision 2

- Complete the Provision 2 Amendment to the Free and Reduced Policy Statement.
- Within the Program Participation tab of the Site Application(s) in the Harvest Child Nutrition System Application for School Nutrition Programs, indicate that the School will be operating Provision 2 for Breakfast and Lunch and upload the [Amendment to the Free and Reduced Policy Statement](#).
- Begin a campaign to collect free and reduced-price meal applications.
- Attend [Provision 2 training](#) at Child Nutrition Summer Institute.
- Conduct direct certification activities and process applications as normal.
- Count meals by student (return to pre-COVID-19 waivers counting and claiming), but do not charge students for meals.

Extending Provision 2 in Year 5 and Beyond

The claiming percentages established in the base year of Provision 2 can be used for Years 2-4, without having to collect new applications. In Year 5, schools that can demonstrate that their socioeconomic status has not changed may request a four-year extension of their base year claiming percentages. The base year application information for Provision 2 schools asks for several socioeconomic factors, including unemployment data and direct certification data for 3SquaresVT (SNAP). The Vermont Department of Labor has information on [county level unemployment data for Vermont](#). This information could be used as a source for unemployment data. It is not easily printable, but it can be captured with a screenshot. If any of these factors are unchanged or similar in Year 5, an extension can be granted, and the school will not need to collect applications again in Year 5 in order to continue with Provision 2.

Additional Planning for Universal Meals

This section covers several additional areas that SFAs offering universal meals in SY22-23 should plan to address.

Second Meals

Schools are never allowed to plan to serve second meals. Second lunches can never be claimed for reimbursement in NSLP. However, if enough food is leftover, second breakfasts may be provided under traditional counting and claiming and CEP. It is yet to be determined if the state will be providing an additional Universal Meals Supplement for second meals in CEP. In Provision 2, second breakfasts may not be claimed for reimbursement.

Meal Charge Policy

All SFAs are required to have a meal charge policy that indicates how payment or non-payment for meals will be handled. AOE suggests updating the Meal Charge Policy for SY22-23 by adding the following language:

During School Year 22-23, our SFA will be offering meals at no charge to all students using the Community Eligibility Provision or Provision 2. The State of Vermont will provide a Universal Meals Supplement to cover the cost of any "paid" student meals. This meal charge policy will remain in effect for a la carte items and second meals.

Setting Meal Prices

Schools operating Provision 2 and CEP do not need to set a student meal price. However, schools should still set an adult meal price. We will not have targeted adult meal prices until USDA releases the School Year 22-23 reimbursement rates, as adult meal prices are based on the applicable reimbursement rate plus the USDA Foods effective rate. In the Meal Charges tab of the Site Application(s) in the packet in the Harvest Child Nutrition Programs System, please enter an amount at least as high as the adult meal prices in School Year 2021-2022.

Operating the After School Snack Service

All schools may operate the After School Snack Service in the NSLP. However, only "area-eligible" schools are eligible to receive the full reimbursement rate for all snacks served. Schools are considered area-eligible when 50% or more of the students qualify for free and reduced-price meals. In addition, for School Year 22-23, schools with at least 31.25% of their students directly certified for free meals (ISP of greater than or equal to 31.25%) are considered area eligible. Schools that are not area-eligible must claim after school snacks by student status. They may charge reduced and paid households for these snacks, or they may offer snacks for free using another source of funds. No more than 15 cents may be charged for reduced price snack. There is no state funding for reduced price or paid snacks in the After School Snack Service.