

**CHAPTER 36****CHILD NUTRITION PROGRAMS****Authority**

N.J.S.A. 18A:33-4 and 5 and 18A:33-9 et seq.

**Source and Effective Date**

R.2009 d.387, effective November 25, 2009.  
See: 41 N.J.R. 2749(a), 41 N.J.R. 4699(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 36, Child Nutrition Programs, expires on November 25, 2016. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 36, Child Nutrition Programs, was originally codified in Title 6 as Chapter 79, Child Nutrition Programs. Chapter 79 was adopted as R.1975 d.161, effective June 12, 1975. See: 7 N.J.R. 201(c), 7 N.J.R. 307(a).

Chapter 79, Child Nutrition Programs, was recodified as N.J.A.C. 6:20-9 by R.1992 d.202, effective May 4, 1992. See: 24 N.J.R. 324(a), 24 N.J.R. 1791(c).

Pursuant to Executive Order No. 66(1978), N.J.A.C. 6:20-9 was readopted as R.1997 d.9, effective December 10, 1996. See: 28 N.J.R. 4297(a), 29 N.J.R. 124(a).

Pursuant to Reorganization Plan No. 002-1997, N.J.A.C. 6:20-9 was recodified as N.J.A.C. 2:36, effective February 10, 1998. See: 30 N.J.R. 870(b).

Chapter 36, Child Nutrition Programs, expired on December 10, 1998.

Chapter 36, Child Nutrition Programs, was adopted as new rules by R.1999 d.62, effective March 1, 1999. See: 30 N.J.R. 4093(a), 31 N.J.R. 637(b).

Chapter 36, Child Nutrition Programs, was readopted as R.2004 d.289, effective June 30, 2004. See: 36 N.J.R. 1915(a), 36 N.J.R. 3523(b).

Chapter 36, Child Nutrition Programs, was readopted as R.2009 d.387, effective November 25, 2009. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS****SUBCHAPTER 1. GENERAL PROVISIONS**

- 2:36-1.1 Definitions
- 2:36-1.2 Policy and Agreement for School Nutrition Programs
- 2:36-1.3 Eligibility
- 2:36-1.4 Survey
- 2:36-1.5 Free and reduced price meal and/or free milk application
- 2:36-1.6 Participation requirements
- 2:36-1.7 New Jersey School Nutrition/Wellness Policy
- 2:36-1.8 Nutrition standards
- 2:36-1.9 Review and evaluation
- 2:36-1.10 Maximum charge
- 2:36-1.11 Competitive food policy
- 2:36-1.12 Meal accountability
- 2:36-1.13 Biosecurity for school food service

**APPENDIX. NEW JERSEY SCHOOL NUTRITION/  
WELLNESS POLICY****SUBCHAPTER 1. GENERAL PROVISIONS****2:36-1.1 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Agreement for School Nutrition Programs” means the agreement entered into between the Department and each sponsor pursuant to Federal regulations 7 CFR Parts 210, 215, 220 and 245.

“Application” means the notifying letter and application form issued to all parents of students enrolled in school to determine eligibility for child nutrition programs.

“Bureau” means the Bureau of Child Nutrition Programs, which administers the Federal child nutrition program in the State of New Jersey.

“Candy” is defined as any food item, that as served in its finished form, contains, by weight, 40 percent or more sugar (in crystalline form or in solution as syrup, both monosaccharides and disaccharides) and/or other sweetening agents, or any food product commonly referred to as “candy.”

“Child Nutrition Programs” means the National School Lunch Program, School Breakfast Program, After School Snack Program, Fresh Fruit and Vegetable Program, Special Milk and Split-Session Kindergarten Milk Programs, Child Care Food Programs and the Summer Food Service Program.

“Competitive foods” means all food and beverage items, other than the reimbursable meals, sold, served, or given away during the school day.

“Department” means the State Department of Agriculture.

“Department’s Consolidated Enrollment Report: Current School Enrollment Data” means a comprehensive report which districts are required to submit each October to the State Department of Education to provide information on school enrollment data, including the number of students eligible for free and reduced price meal benefits.

“Division” means the Division of Food and Nutrition which is the division within the State Department of Agriculture that contains the Bureau of Child Nutrition and the Bureau of Food Distribution.

“Enrolled student” means all students enrolled in the school including pre-kindergarten, kindergarten and grades one through 12 regardless of participation in the School Nutrition Programs.

“Five percent threshold” means the point at which five percent or more of the total school enrollment of each school in the district is eligible for free or reduced price meals and/or free milk.

“Foods of minimal nutritional value” means those foods contained in the following categories as specified in the United States Department of Agriculture, regulations 7 CFR Part 210 Appendix B: soda water, water ices, chewing gum, certain candies: hard candy, jellies and gums, marshmallow candies, fondant, licorice, spun candy and candy coated popcorn.

“Free and Reduced Priced Policy” means the free and reduced-price policy required by applicable regulations of the USDA, 7 CFR Parts 210, 215, 220 and 245.

“Hours of operation” means from the beginning of the first scheduled meal period until the end of the last scheduled meal period.

“Local educational agency” means a public board of education or other public or private nonprofit authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public or private nonprofit elementary schools or secondary schools in a city, county, township, school district or other political subdivision of a State, or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public or private nonprofit elementary schools or secondary schools, which has legal authority to operate the National School Lunch, School Breakfast, After School Snack, Fresh Fruit and Vegetable or Special Milk Program.

“Meal” means a reimbursable school breakfast, school lunch and/or after school snack.

“New Jersey School Nutrition/Wellness Policy” means the nutrition policy containing standards developed by the State Department of Agriculture, incorporated herein by reference as the chapter Appendix.

“Nonprofit school food service” means that all food service operations conducted by the school food authority must be conducted principally for the benefit of school children, all of the revenue from which is to be used solely for the operation or improvement of such food services.

“Nutrition standards” means those standards established by the U.S. Department of Agriculture at 7 CFR Parts 210 and 220 incorporated by reference by the State Department of Agriculture. These standards govern the type and nutritional value of all food items offered as part of the school lunch, school breakfast and after school snack meal pattern and a la carte food items.

“Point of service” means that point in the food service operation where a determination can accurately be made that a reimbursable free, reduced-priced or paid meal and/or free or paid milk has been served to an eligible child.

“School” means a site operating under the supervision of a sponsor as defined herein.

“School Nutrition Programs” means those programs administered by the Bureau of Child Nutrition, which include the National School Lunch Program, School Breakfast Program, After School Snack Program, Fresh Fruit and Vegetable Program and Special Milk Programs.

“Secretary” means the Secretary of the New Jersey Department of Agriculture.

“Sponsor” means the school food authority participating in any child nutrition program.

“Sugar” means any class of water-soluble crystalline carbohydrates having a sweet taste. Sugar also comes in syrup form. Other words for sugar include, but are not limited to, fructose, sucrose, lactose, maltose, glucose, galactose, honey, dextrin, malt, molasses, maple syrup and corn syrup.

“Survey” means the procedure required of every school and sponsor to determine eligibility of every enrolled student for free and reduced-price meals regardless of whether the school has an agreement with the Department to participate in any of the School Nutrition Programs.

“20 percent threshold” means the point at which 20 percent or more of the total school enrollment of each school is eligible for free or reduced priced meals and/or free milk.

“USDA” means the United States Department of Agriculture.

Amended by R.1987 d.524, effective December 21, 1987.

See: 19 N.J.R. 1599(a), 19 N.J.R. 2399(a).

Definitions substantially amended.

Amended by R.1992 d.202, effective May 4, 1992.

See: 24 N.J.R. 324(a), 24 N.J.R. 1791(c).

Recodified and added new definitions for “Child Nutrition Programs”, “Department’s Consolidated Enrollment Report: Current School Enrollment Data”, “enrolled student”, “five percent threshold”, “nutritional standards”, “school food authority” and “school nutrition programs”; amended “sponsor” and “survey”.

Amended by R.2004 d.289, effective August 2, 2004.

See: 36 N.J.R. 1915(a), 36 N.J.R. 3523(b).

Rewrote the section.

Amended by R.2005 d.185, effective June 20, 2005.

See: 36 N.J.R. 5028(a), 37 N.J.R. 2234(b).

Added “Candy”, “Competitive foods”, “Meal”, “Model School Nutrition Policy”, and “Sugar”.

Amended by R.2009 d.387, effective December 21, 2009.

See: 41 N.J.R. 2749(a), 41 N.J.R. 4699(a).

In definition “Child Nutrition Programs”, inserted “Fresh Fruit and Vegetable Program,”; added definitions “Local educational agency” and “Nonprofit school food service”; substituted definition “New Jersey School Nutrition/Wellness” for definition “Model School Nutrition”; deleted definition “School food authority”; and in definition “School Nutrition Programs”, inserted “Fresh Fruit and Vegetable Program”.

## 2:36-1.2 Policy and Agreement for School Nutrition Programs

(a) All school districts participating under one of the Federal child nutrition programs shall electronically certify compliance with the “Policy for Free and Reduced Price