

(b) Each school district shall certify and submit this policy to the Division no later than the end of the second calendar month for which any reimbursement can be claimed for meals and milk served under the child nutrition programs. Sponsors starting programs in September shall submit the policy no later than September 30 of that year.

(c) The Agreement for School Nutrition Programs shall contain the policy referred to in (a) above and shall be submitted with the application packet to participate in any Child Nutrition Program prescribed by the Secretary pursuant to 7 CFR §§ 210.9, 215.7, 220.7 and 245.10.

Amended by R.1987 d.524, effective December 21, 1987.
See: 19 N.J.R. 1599(a), 19 N.J.R. 2399(a).

Substituted "Agreement for School Nutrition Programs" for "school feeding agreement".

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

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

Added new (a) and (c) regarding the adoption of free and reduced price policies in all school districts; recodified from N.J.A.C. 6:79-1.2. Administrative Correction to (a).

See: 24 N.J.R. 2712(c).

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

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

Rewrote (a) and (b); in (c), deleted "in accordance" preceding "with the application" and inserted "packet to participate in any Child Nutrition Program" preceding "prescribed by the Secretary".

Case Notes

Statute authorizing exemption from mandatory school lunch program upheld against due process constitutional challenge. Robbiani v. Burke, 77 N.J. 383, 390 A.2d 1149 (1978).

2:36-1.3 Eligibility

The Division shall administer eligibility standards pursuant to the Federal Income Eligibility Guidelines set forth at 7 CFR Part 245 for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools. These standards shall be used by all sponsors participating in the child nutrition programs and by all nonparticipating schools for the purpose of completing the survey as required by N.J.A.C. 2:36-1.4.

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

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

Substituted "administer" for "establish".

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 reference to Federal regulations and recodified from N.J.A.C. 6:79-1.3.

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.

2:36-1.4 Survey

(a) By the last school day prior to October 16 of each school year, each school, under the supervision of its sponsor, shall survey the parent or guardian of each student enrolled to determine which students are eligible to receive free or reduced-price meals and/or free milk. The purpose of the survey is to determine whether the school meets or exceeds the five percent threshold established by N.J.S.A.

18A:33-4 for school lunch programs and the 20 percent threshold established for school breakfast programs in N.J.S.A. 18:33-9.

(b) This survey shall be conducted using the "Application for Free and Reduced Price Meals or Free Milk" as prescribed by the Secretary pursuant to Federal regulations (7 CFR Part 245). This application shall be distributed to the parent or guardian of every student enrolled in the school.

(c) The results of this survey shall be included in the Department of Education's Consolidated Enrollment Report: Current School Enrollment Data for the school year in which the survey is made.

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

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

Added "which shall include" to text.

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

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

New due date added in (a) and purpose; at (b) required use of specific application; at (c) requires submission of information in specific report and recodified from N.J.A.C. 6:79-1.4.

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

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

In (a), rewrote the second sentence.

2:36-1.5 Free and reduced price meal and/or free milk application

(a) The Division shall prepare an application form that shall be used by all school districts. A copy of the application completed by each school district must be filed with the Division together with the Free and Reduced Priced Policy described in N.J.A.C. 2:36-1.2.

(b) The parent or guardian shall be given at least two weeks from the date of receipt of the application to complete and submit the application to the school district which must provide adequate assistance to parents in completing these applications.

(c) Applications in languages other than English must be provided by the school food authority where non-English speaking parents are possible applicants. (An application in Spanish and French is available upon request from the Division of Food and Nutrition, Bureau of Child Nutrition.)

(d) Upon receipt of the completed application, the district must determine each student's eligibility for a free or reduced-price meal and/or free milk from the information submitted. Each student shall be offered free or reduced-price meals and/or free milk as soon as eligibility has been determined. Applications from the proceeding year may be used to determine eligibility only for the month of September. If the school has reason to question the information provided, the student affected must continue to receive the free or reduced-price meals and/or free milk until completion of the appeal procedures set forth in the sponsor's policy pursuant to Federal regulations (7 CFR § 245.7 Hearing Procedure for Families and School Food Authorities).

(e) Local officials may complete an application for a student believed to be eligible if the household fails to apply. The school official must complete an application on behalf of the student based on the best household size and income information available to the school official. The source of the information must be noted on the application. This option is intended for limited use in individual situations and must not be used to make eligibility determinations for categories or groups of students.

Amended by R.1987 d.524, effective December 21, 1987.
See: 19 N.J.R. 1599(a), 19 N.J.R. 2399(a).

Deleted text "said information is found to be incorrect by" and substituted "completion of" in (d).

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

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

Replaced term "sponsor" with "school district"; added reference to Federal regulations in (d) and recodified from N.J.A.C. 6:79-1.5.

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

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

Rewrote (a) and (e); in (c), inserted "by the school food authority" preceding "where non-English", "Division of Food and Nutrition," preceding "Bureau" and "of Child Nutrition" following "Bureau"; in (d), inserted the second sentence.

2:36-1.6 Participation requirements

(a) Any school in which five percent or more of the school enrollment is found to be eligible for free or reduced-price meals shall participate in the National School Lunch Program or, at the minimum, offer lunch to all students enrolled in that school, with free or reduced price lunches offered to all qualifying children. Such lunches shall meet minimum nutritional standards established by the U.S. Department of Agriculture (7 CFR § 210.10). Any school may participate in the National School Lunch Program without participating in any other Federal programs.

(b) Any school in which 20 percent or more of the school enrollment is found to be eligible for free or reduced price meals as of October 1 of the preceding school year, shall offer the School Breakfast Program to all students enrolled in that school, with free and reduced price breakfasts offered to all qualifying children. Such breakfasts shall meet minimum nutritional standards established by the U.S. Department of Agriculture 7 CFR § 220.8. Any school may participate in the School Breakfast Program without participating in any other Federal programs.

1. Any school meeting the 20 percent threshold that requires the implementation of the School Breakfast Program must comply with the following requirements:

i. Each school food authority shall submit a school breakfast implementation plan to the Division by November 1 of the year prior to implementing the program in said school(s). Each implementation plan shall be reviewed and evaluated by the Division no later than February 1 of the following year.

ii. Any schools that have a participation rate of less than 50 percent of eligible students in a school breakfast program during any year of the program shall submit a revision of their school breakfast plan to include changes designed to increase student breakfast participation.

(c) The school food authority shall maintain a non-profit school food service. All revenues are to be used only for the operation or improvement of the school food service.

(d) The school food authority shall limit its net cash resources to an amount that does not exceed three months' average expenditures for its non-profit school food service.

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

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

Added (c).

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

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

Required that all qualifying students be offered free and reduced price lunches and recodified from N.J.A.C. 6:79-1.6.

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

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

Rewrote (a) and (b).

2:36-1.7 Local school nutrition policy

(a) By September 2006 school districts/sponsors shall adopt a local School Nutrition Policy. The Department hereby adopts and incorporates by reference the Dietary Guidelines for Americans and the USDA nutrition standards for National School Lunch, School Breakfast and/or After School Snack programs as required by 7 CFR Parts 210, 215, 220 and 245 as the basis for this local policy. Such policies shall regulate the types of food items offered outside the Federal meal requirements, such as a la carte sales, vending machines, school stores and fundraisers. The policy shall also address the dining environment, adequate time for student meal service and consumption and coordination of lunch and recess or physical education schedules. The policy adopted by the school district/sponsor shall be implemented by September 2006.

1. A copy of the Dietary Guidelines for Americans may be obtained at <http://www.usda.gov/cnpp/DietGd.pdf>. A copy of the Guidelines are also on file in the Director's Office, Division of Food and Nutrition, NJ Department of Agriculture, PO Box 334, Trenton, NJ 08625.

2. A copy of 7 CFR Parts 210, 215, 220 and 245 is on file in the Director's Office, Division of Food and Nutrition, NJ Department of Agriculture, PO Box 334, Trenton, NJ 08625.

(b) By September 2007, each school district/sponsor shall implement a policy consistent with New Jersey Department of Agriculture's Model School Nutrition Policy, which is set forth in the chapter Appendix. The Model School Nutrition Policy is a minimum standard and does not preclude the adoption of a more stringent policy by a school district/sponsor.