

**CHAPTER 67-21-02
SCHOOL BREAKFAST PROGRAM**

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67-21-02-01. Purpose.

The school breakfast program, initiated at the federal level and in partnership with the states, authorizes payments to the states to assist them to initiate, maintain, or expand nonprofit breakfast programs in schools.

History: Effective February 1, 2000.

General Authority: NDCC 15.1-35-03, 28-32-02

Law Implemented: NDCC 15.1-35-03

67-21-02-02. State agency.

The department of public instruction has been designated by the United States department of agriculture as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the program.

History: Effective February 1, 2000.

General Authority: NDCC 15.1-35-03, 28-32-02

Law Implemented: NDCC 15.1-35-03; 7 CFR 220.3

67-21-02-03. Use of federal rules and policies.

Unless otherwise specified in this chapter, eligibility to participate in the school breakfast program is governed by federal school breakfast program regulations. The local program must conform to lawfully issued rules and policies relating to the school breakfast program.

History: Effective February 1, 2000.

General Authority: NDCC 15.1-35-03, 28-32-02

Law Implemented: NDCC 15.1-35-03, 15.1-35-05; 7 CFR 220

67-21-02-04. Eligibility.

Local agencies eligible for participation in school breakfast programs include:

1. Educational units of high school grade or under, recognized as part of the educational system in the state;
2. Public or nonprofit private classes of preprimary grade conducted in educational units as a part of the educational system in the state;
3. Public or nonprofit private residential institutions that operate principally for the care of children; and

4. Private institutions licensed by the department of human services to provide residential child care services.

History: Effective February 1, 2000.

General Authority: NDCC 15.1-35-03, 28-32-02

Law Implemented: NDCC 15.1-35-03, 15.1-35-05; 7 CFR 220.2(u)

67-21-02-05. Application.

Application forms are available at the Department of Public Instruction, 600 East Boulevard Avenue, Department 201, Bismarck, North Dakota 58505-0440.

1. The application forms include:
 - a. A program agreement, which includes:
 - (1) Identification of the program or programs in which the local agency wants to participate;
 - (2) Verification that the local agency will comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all provisions required by the implementing regulations of the United States department of agriculture. Signature by an authorized representative of the local agency will serve as verification; and
 - (3) Verification of agreement that the local agency agrees to compile data, maintain records, and submit reports as required and permit authorized personnel to review such records, books, and accounts as needed to ascertain compliance with the program. Signature by an authorized representative of the local agency will serve as verification. Such records must be maintained for three years after the end of the fiscal year to which they pertain.
 - b. A renewal agreement, which is presented annually to the local agency by the state agency for any appropriate revisions. Forms and information are forwarded to the local agency in July and must be returned for approval and renewal by September.
 - c. A free or reduced-price policy statement and attachments, which will be automatically renewed unless a new or updated statement is entered into by the state and local agencies.
2. The program agreement, in its entirety, must stipulate that local agencies:
 - a. Maintain a nonprofit school food service program;
 - b. Limit its net cash resources to an amount that does not exceed three months' average expenditures;
 - c. Maintain a financial management system and comply with related requirements;
 - d. Serve meals that meet the minimum requirements;
 - e. Price meals as a unit;
 - f. Serve meals free or at a reduced price to all children who are determined by the local agency to be eligible for such meals;

- g. Count meals served and claim reimbursement for reimbursable free, reduced-price, and paid meals;
- h. Maintain proper sanitation and health standards in conformance with applicable state and local laws and regulations;
- i. Accept and use donated foods offered by the United States department of agriculture, if desired;
- j. Maintain necessary facilities for storing, preparing, and serving food;
- k. Upon request, make all accounts and records pertaining to the program available to the state agency and to the United States department of agriculture; and
- l. Maintain files of currently approved and denied free and reduced-price applications or alternative documents and retain them for three years after the end of the fiscal year to which they pertain.

History: Effective February 1, 2000.

General Authority: NDCC 15.1-35-03, 28-32-02

Law Implemented: NDCC 15.1-35-03, 15.1-35-05; 7 CFR 220.7

67-21-02-06. Monitoring.

The department of public instruction shall conduct onsite reviews of local agency program operations as specified by federal regulations for the purpose of providing guidance and technical assistance to local agency food service programs. All such reviews must include the assessment of claims by the state agency for any overpayment and appropriate corrective action.

History: Effective February 1, 2000; amended effective January 1, 2020.

General Authority: NDCC 15.1-35-05, 28-32-02

Law Implemented: NDCC 15.1-35-05; 7 CFR 220.15

67-21-02-07. Reimbursement claims.

Local agencies shall submit claims for reimbursement using the basic claim for reimbursement form provided by the department of public instruction. Such claims are due on the tenth day of the month following the month of the claim. Federal and state reimbursement levels are determined on a periodic basis according to 7 CFR 220.9.

History: Effective February 1, 2000.

General Authority: NDCC 15.1-35-03, 28-32-02

Law Implemented: NDCC 15.1-35-03, 15.1-35-05; 7 CFR 210.11

67-21-02-08. Meal costs.

The local agency has complete discretion in establishing student meal prices. However, if student payments are required, they may not exceed thirty cents for a reduced-price breakfast. Qualifying students must receive breakfast free or at a reduced price. Local agencies must agree to establish and use fair hearing procedures as stipulated in the free and reduced-price policy for households contesting the agency's decision regarding an eligibility determination on an application for reduced-price or free meals. Local agencies under alternative provisions 2 and 3 for annual determinations of eligibility for free and reduced-price school meals and daily meal count by type, or the community eligibility provision are not allowed to charge for meals.

History: Effective February 1, 2000; amended effective January 1, 2020.

General Authority: NDCC 15.1-35-03, 28-32-02

Law Implemented: NDCC 15.1-35-03, 15.1-35-05; 7 CFR 210.19

67-21-02-09. Menus.

All breakfasts served under the program must meet program requirements as stipulated in 7 CFR 220.8 and must comply with dietary guidelines for Americans.

History: Effective February 1, 2000.

General Authority: NDCC 15.1-35-03, 28-32-02

Law Implemented: NDCC 15.1-35-03, 15.1-35-05; 7 CFR 220.8

67-21-02-10. Procurement standards.

Local agencies must comply with the requirements of the office of management and budget guidance for grants and agreements, 2 CFR 200 subpart D, concerning the procurement of supplies, food, equipment, and other services with program funds.

History: Effective February 1, 2000; amended effective January 1, 2020.

General Authority: NDCC 15.1-35-03, 28-32-02

Law Implemented: NDCC 15.1-35-03, 15.1-35-05; 2 CFR 200 subpart D, 7 CFR 220.16