



United States
Department of
Agriculture

Food and
Nutrition
Service

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SUBJECT: Community Eligibility Provision: Guidance and Q&As

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

This memorandum provides background as well as guidance and Q&As that address common questions as the Community Eligibility Provision is implemented nationwide beginning July 1, 2014.

Section 104(a) of the Healthy, Hunger Free Kids Act of 2010 (HHFKA) amended section 11(a)(1) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1759a(a)(1)) to provide an alternative to household applications for free and reduced price meals in local educational agencies (LEAs) and schools in high poverty areas. This alternative is referred to as the Community Eligibility Provision (CEP).

The HHFKA required the CEP be phased in over a period of three years, beginning July 1, 2011. In School Year 2013-2014, the CEP was available in eligible LEAs and schools in Illinois, Kentucky, Michigan, New York, Ohio, District of Columbia, West Virginia, Florida, Georgia, Maryland, and Massachusetts. Beginning July 1, 2014, the CEP will be available nationwide.

The proposed rule "*National School Lunch Program and School Breakfast Program: Eliminating Applications Through Community Eligibility as Required by the Healthy, Hunger-Free Kids Act of 2010*" was published November 14, 2013, and comments were accepted until January 3, 2014. Comments are being reviewed, but a final rule will not be published in time for the nationwide implementation of CEP. Until a final rule is published, this and other guidance from the Food and Nutrition Service are the implementing guidance.

To be eligible, LEAs and/or schools must: meet a minimum level (40%) of identified students for free meals in the year prior to implementing the CEP; agree to serve free lunches **and** breakfasts to all students; not collect free and reduced price applications from households in participating schools; and agree to cover with non-Federal funds any costs of providing free meals to all students above amounts provided in Federal assistance.

Reimbursement is based on claiming percentages derived from the identified student percentages.

The *Identified Students* are students certified for free meals through means other than individual household applications; this primarily includes students who are directly certified for free meals on the basis of their participation in the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and the Food Distribution Program on Indian Reservations (FDPIR). It also includes homeless, runaway, Head Start, and migrant youth. It does not include students who are categorically eligible based on submission of a free and reduced price application.

The claiming percentages established for a school in the first year may be used for a period of four school years and may be increased each year if the identified student percentages rise for the LEA and/or school. The percentage of identified students is multiplied by a factor of 1.6 to determine the total percentage of meals reimbursed at the Federal free reimbursement rate (The percentage derived from this calculation must not exceed 100 percent). The remaining percentage of meals, equaling up to 100 percent, is reimbursed at the Federal paid reimbursement rate. Schools apply the claiming percentages to the total number of lunch and the total number of breakfast meals served to determine the number of meals claimed at the free and paid rates.

An LEA may participate in the CEP for all schools in the LEA or only some schools, depending on the eligibility of individual schools and financial considerations based on the anticipated level of Federal reimbursement and other non-Federal support that may be available to cover any meal costs in excess of the Federal reimbursement. Participating schools that continue to meet the minimum direct certification percentage may immediately begin another four-year cycle after the initial cycle concludes. For participating schools falling below the minimum percentage at the end of their four-year cycle, there is the possibility to continue to participate for a “grace year.” A participating LEA or school may stop participating in the CEP during the four-year cycle by notifying the State agency no later than June 30 of the school year prior to when they want to return to normal counting and claiming procedures. This will allow sufficient time for the LEA to prepare for the certification process in the coming school year.

Questions and Answers developed from frequently asked questions during the three initial years of implementation are attached to this memorandum. As additional Questions and Answers arise during the nationwide implementation, they will be added to this memorandum.

Regional Directors
State Directors
Page 3

State agencies are reminded to distribute this memorandum and attachment to program operators immediately. Local educational agencies, school food authorities, and other program operators should direct any questions concerning this guidance to their State agency. State agencies with questions should contact the appropriate FNS Regional office.

Original Signed

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Attachment

Frequently Asked Community Eligibility Provision (CEP) Questions

LEA and School Level Eligibility

1. What schools are eligible to participate in the CEP?

Any school participating in the National School Lunch Program (NSLP) and the School Breakfast Program (SBP) and meeting the eligibility criteria to elect the CEP may participate.

2. Does each individual school need to meet the 40% identified student percentage, or may the 40% threshold be based on an aggregate of schools in the LEA?

The 40% threshold may be determined school-by-school, by a group of schools within the LEA, or in the aggregate for an entire LEA. This does allow for some schools to be below the 40% threshold as long as the aggregate of the group of schools meets the threshold. The LEA must determine whether they can operate the program given the expected level of Federal reimbursement and other non-Federal resources available to them.

3. How is the identified student percentage determined for groups of schools electing CEP?

The identified student percentage for a group of schools is calculated by taking the sum of the identified students for the entire group of schools divided by the sum of the total student enrollment for the entire group of schools.

4. Are new schools able to elect the CEP?

If the number of identified students and total enrollment are available before the counting and claiming of meals begins and the school meets the eligibility requirements, then the LEA may elect to have the school participate or be included in a group of schools. If the number of identified students and enrollment are not available, the LEA may not include the new school in CEP.

5. If an LEA has a LEA-wide identified student percentage of at least 40% but later chooses to drop some schools, does the LEA still qualify?

The identified student percentage threshold must be met by the LEA or group of participating schools. If the threshold is not met as an entire LEA with the deletion of the schools, the LEA is not eligible to participate on a LEA-wide basis. The LEA could have individual schools or groups of schools within the LEA participate. This would normally be considered a new group so new identified student percentages would need to be established.

6. When is an LEA permitted to drop CEP?

An LEA may decide not to elect the CEP or to stop utilizing the CEP at any time as long as the State is notified by June 30th of the current school year. Since the new percentage of identified students must be established before April 1st of the prior year, LEAs will have time to decide if continuing the CEP will be advantageous for the next year. LEAs electing to stop the CEP must be prepared to return to their normal application and counting and claiming procedures.

7. Can schools be randomly grouped together to become eligible for the CEP?

Yes, as long as the schools are in the same LEA.

8. Are LEAs with schools currently operating Provision 2/3 in a NON BASE year permitted to elect the CEP?

Provision 2 and Provision 3 schools would be required to obtain identified student percentages reflective of April 1st of the prior school year to participate in CEP. If the LEA determines that the identified student percentage meets eligibility requirements for these schools, they may participate.

9. Are schools/LEAs participating in the CEP allowed to participate in the Demonstration Project to Evaluate Direct Certification with Medicaid?

Yes, schools/LEAs participating in the CEP can participate in the Demonstration Project to Evaluate Direct Certification with Medicaid. The students identified through Medicaid with an income meeting the 133% threshold in the definition of identified students would be considered part of the identified student percentage.

Identified Student Percentage Determination
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10. Who are the identified students?

The identified students are the number of students approved as eligible for free meals and are not subject to verification. This definition includes students directly certified through SNAP, TANF, and FDPIR participation as well as homeless students on the liaison list, Head Start, pre-K Even Start, migrant youth, runaways, and non-applicants approved by local officials identified through means other than an application. Foster children certified through means other than an application are also included as well as students certified for free meals based on a letter provided by the household from the SNAP agency. Students who are categorically eligible based on information, such as a case number, submitted through a free and reduced price application are NOT included.

11. What number should be used as the total enrollment for determining the percentage of identified students?

For purposes of calculating the identified student percentage, *Enrolled students* means students who are enrolled in and attending schools participating in the community eligibility provision and who have access to at least one meal service (SBP or NSLP) daily. The identified student percentage must be representative of the number of identified students and the student enrollment as of April 1 of the prior year. Please note that the number of students enrolled should reflect all those students with access to the NSLP or SBP and not just those students participating in the programs.

12. When does the identified student percentage have to be drawn in relation to April 1st?

The law states that the identified student percentage must be established using the number of identified students and total students enrolled with access to the NSLP or SBP as of April 1st of the prior year. The identified student percentage must therefore be representative of the identified students and the student enrollment on April 1. Due to variations in the point in time for monthly updates in State and local systems, updates could be done before or after April 1 to account for differences in operational procedures, but the data would have to be representative of this date. Since regulations regarding direct certification at 245.6(b)(3)(ii) require direct certification matches with SNAP to be run three times each year the timing of one of these matches can easily be planned to represent April 1.

13. How should we round when determining the identified student percentage?

When determining the percentage of identified students you should NOT round. The percentage must be at least 40% to be eligible. A percentage of 39.98% does NOT meet the threshold.

Non-Federal Sources

14. What may be counted as “funding from non-Federal sources”?

Any funds other than Federal reimbursement available to the nonprofit school food service account may be used. Please note that, similar to Provision 2 and 3, the use of non-Federal funds is only necessary if the total amount of Federal reimbursement through the CEP does not cover the costs of serving free meals to all students.

Examples of non-Federal sources include, but are not limited to: any portion of State revenue matching funds that exceeds the minimum requirement established in 7 CFR Part 210.17, profits from a la carte sales, cash donations, and in-kind contribution funds from outside sources such as volunteer services.

Reimbursements

15. How are breakfast and lunch reimbursed through the CEP?

The identified student percentage is used to determine reimbursements for both breakfast and lunch. This percentage multiplied by 1.6 is the free claiming percentage. The free claiming percentage is applied to the total number of breakfasts and the total number of lunches served to determine how many breakfasts and lunches are claimed at the free rate. The remaining meals are reimbursed at the paid rate.

16. Are schools electing the CEP able to receive the extra 2 cents lunch reimbursement and severe need breakfast reimbursements?

Yes. CEP schools will be reimbursed at their usual reimbursement rates, including the 2 cent lunch differential and severe need breakfast rates, if applicable. Also, if the schools have been certified for the additional six cents, they would receive that additional reimbursement.

17. Will the 1.6 multiplier change?

The law states that the multiplier is 1.6 through school year (SY) 2013-2014 (July 1, 2013 through June 30, 2014). After that time, FNS is permitted to change the multiplier to a number between 1.3 and 1.6. If the multiplier is changed, schools electing the CEP will keep the same multiplier for their entire four-year cycle and do not have to implement changes to the multiplier until their next cycle if the CEP is elected again. FNS will not be making a change to the multiplier for SY 2014-2015. Any change to the multiplier factor would be communicated in advance of implementation, through the *Federal Register*.

18. How will area eligibility percentages be determined for CEP schools?

Since the 1.6 multiplier is intended to provide an estimate of the total number of students eligible for free and reduced price meals in eligible schools, the product of the identified student percentage multiplied by 1.6 will be used for area eligibility purposes. Schools in LEAs electing the CEP for the entire LEA or as part of a group of schools electing the CEP with a shared identified student percentage must still use the individual school CEP percentage. These percentages can be used for determining area eligibility in the Summer Food Service Program, Seamless Summer, Child and Adult Care Food Program (CACFP) at-risk afterschool snacks, CACFP tiering, and afterschool snacks through the NSLP.

19. How are Fresh Fruit and Vegetable Program (FFVP) award determinations made for CEP schools?

Since the 1.6 multiplier is intended to provide an estimate of the total number of students eligible for free and reduced price meals in eligible schools, the product of the identified student percentage multiplied by 1.6 will be used for the purposes of awarding FFVP funds. Schools in LEAs electing the CEP for the entire LEA or as part of a group of schools electing the CEP with a shared identified student percentage must still use the individual school CEP percentage for purposes of awarding FFVP funds.

Verification

20. Do LEAs and schools electing the CEP conduct verification?

No, since applications are not collected, LEAs are exempt from verification for the schools electing CEP. LEAs with some, but not all schools electing the CEP must still conduct verification in the schools not electing the CEP.

Reporting the Data

21. How is CEP data reported on the FNS 742?

CEP schools and Provision 2/3 non-base year FNS-742 procedures for SFAs and States:

- Report in Sections 1 and 2 of the FNS-742 for all schools as applicable.
- If all schools in the LEA are participating in CEP, check box 3-1 and report “0’s” for the remaining Sections of the FNS-742.
- If only some schools in the LEA are participating in CEP report as follows:
 - Report SNAP-only direct certification data for the schools NOT participating in CEP in **Section 3-2: “Students directly certified through SNAP** on the FNS-742.
 - Report the remaining fields of Section 3 and all other Sections of the FNS-742 for schools NOT participating in CEP or provision 2/3 in non-base as applicable.

22. How is CEP data reported on the FNS 834?

CEP schools and Provision 2/3 non-base year FNS-834 procedures for States:

- Report a statewide count of students matched with SNAP for all schools participating in CEP and any provision 2/3 non-base year schools combined on the FNS-834 in the **Data Element #3** box for “**The number of SNAP Children in Special Provision Schools Operating in a Non-Base Year.**”

23. How is October data reported on the FNS-10 for CEP schools?

The FREE percentage currently used to claim meals under the CEP (identified student percentage times 1.6) in the LEA/school should be applied to the current October enrollment number to estimate the number of children approved for FREE lunches to report in 15a. CEP LEAs will not report REDUCED PRICE data in 15b.

24. How are CEP data accounted for in the FNS-828?

All SFAs must report. SFAs that do not charge for paid student lunches must enter "\$0.00" in any or all categories, as applicable. SFAs that have some schools that do not charge for lunches

(i.e., CEP schools), would report the most frequently charged lunch price(s) in those schools or categories of schools that **do** charge for paid lunches.

25. Is there information for LEAs participating in CEP on Title I procedures?

Yes, the Department of Education put out guidance which part of our SP19-2014 memorandum and is available [here](#).