



Prekindergarten through Grade 12 Education  
Office of School Operations and Management Services  
Child Nutrition Program Administration  
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[www.nysed.gov/cm/cnms.htm](http://www.nysed.gov/cm/cnms.htm)

March 2016

TO: Superintendents of Schools  
School Food Service Directors/Managers

FROM: Paula Tyner-Doyle, Coordinator

SUBJECT: School Breakfast Program Regulations for the 2016-2017 School Year

As required by State law, it is now time for districts to decide to implement a School Breakfast Program (SBP) for the 2016-2017 school year or to seek an annual exemption.

**\*\*IMPORTANT NOTICE\*\***

**This memo is not being mailed to Superintendents of Schools, School Business Officials or School Food Service Directors. Please distribute this information to the appropriate individual so that an annual exemption, if needed, may be requested prior to July 1, 2016.**

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All districts that file claims online on the Child Nutrition Management System (CNMS) will not receive a letter of approval for the one-year exemption from the School Breakfast Program. Breakfast exemption status may be viewed on CNMS in the School Food Authority General Information section by selecting the Recipient Agency (RA) requesting the exemption. Click on RA Annual Information. Select the school year 2016-2017. The Breakfast Exemption box will be checked if the exemption has been approved for that RA.

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### **Why offer breakfast at school?**

We believe that the breakfast program is important and encourage schools to think positively about its implementation. While a leisurely breakfast at home with the whole family is the ideal scenario, many factors, other than poverty, result in too many children arriving at school each day at a nutritional disadvantage. When any child arrives at school hungry, his or her readiness to learn is compromised. Morning hunger will be demonstrated by upset stomachs, headaches, inattentiveness, inability to concentrate, behavioral problems and other inappropriate behaviors that also hinder the educational process for others in the classroom. Consequently, educators must actively pursue all initiatives that could result in positive outcomes. Breakfast at school helps to ensure that all children are prepared to face classroom challenges and should be perceived as a viable tool in improving school performance.

Nutrition plays a key role in school performance. Specifically:

- Medical authorities and nutrition researchers have documented that meeting nutritional requirements throughout childhood is essential to full intellectual development.

- The Tufts University Statement (1998) cites: "Recent research provides compelling evidence that undernutrition impacts the behavior of children, their school performance, and their overall cognitive development."
- Researchers have found that undernourished children are less inquisitive and interested in their environment, explore less and learn less from their surroundings, and are less interested in establishing relationships with others. (Brown and Pollett)
- Researchers at Harvard found that when school breakfasts were made available to low-income students their attendance, grades, behavior and emotional adjustment improved.
- A State of Minnesota Breakfast Study found that students who ate breakfast had a general increase in math grades and reading scores, increased student attention, reduced nurse visits, and improved student behaviors.

The State Legislature, in an effort to help improve classroom learning, expanded the number of children who can benefit from the SBP. Section 389 of Chapter 57 of the Laws of 1993 and Chapters 614 and 615 of the Laws of 1993 required school districts to establish no later than September 1, 1993, a school breakfast program in all "severe need" elementary schools and no later than September 1, 1994, in all "severe need" schools and no later than September 1, 1995, in all elementary schools (grades K-6) that participated in the National School Lunch Program (NSLP) on or after January 1, 1993. A "severe need" school is one that served 40 percent or more of its lunches under the NSLP at a free or reduced price in the second preceding year. For 2016-2017 the second preceding year was 2014-2015.

The law does not address pre-K or head start students, students in schools that do not participate in the NSLP, or students in nonpublic schools.

You should consider your options. They include planning for the implementation of the SBP, or if you are seeking an exemption, conducting the required surveys of parents in your community or evaluating participation data for the current year to determine the cost-effectiveness of your operation.

If a severe need school in your district has been identified as one where the school breakfast program must be implemented by September 1, 2016, it is noted on the Attachment in the Severe Need column. All of your elementary schools (grades K-6) that participated in the NSLP on or after January 1, 1993 must also implement an SBP. The Attachment lists those schools which will require you to implement a SBP during school year 2016-2017, or seek an exemption.

### **How to request a Breakfast Exemption?**

The law provides for one-year exemptions for those districts unable to comply because of extenuating factors.

A district may request an exemption based on one of the following:

- A. lack of need for the program because of low enrollment or documented projections of low participation;
- B. economic hardship;
- C. other good cause.

- A.** To be granted an exemption based on lack of need, a school district must submit one of the following by July 1, 2016:
- Documentation of a survey conducted of all parents in the affected building that indicates 80 percent of the children of those responding would not use the program. If fifth grade students will be entering a targeted middle school in September 2016, survey results from the fifth grade parents should be reported separately to reflect a need for a breakfast program for the incoming sixth graders for the middle school. A survey of all the current middle school parents is not necessary. A copy of the cover letter, survey, and survey results indicating a parental response rate of 33 percent or greater must accompany the exemption request. In order to receive an exemption, the survey request and parent letter must be unbiased. Survey requests that clearly contain biased information such as "parents must drive their child to school in order to participate in the SBP" or if the SBP is enacted parents must "periodically volunteer a half-hour in the morning to help with supervision", "the SBP will intrude on instructional time" or that "supervisory problems will occur" will not be approved. These types of statements not only are misleading, but also prevent parents from making informed decisions. Survey results must be reported separately for each school. Surveys can be very simple. In fact, we recommend that only one question be asked. "If the breakfast program were offered, would your child/children participate an average of three days per week? \_\_\_ Yes \_\_\_ No." You would also need to obtain the parent's name, the name of the school, and the number of children affected. Survey results must show 33 percent or greater response rate, 80 percent of responders must indicate they would not use the program for each building requesting an exemption. Surveys must be conducted each year for the following school year.
  - Documentation of a survey of all students attending the affected building that indicates fewer than 10 percent come to school without a morning meal and they would not consume a breakfast in school if it were available.
  - Demonstration that a morning meal of equal nutritional value that accommodates students, regardless of their ability to pay, is available and accessible to all the students attending the affected building through another program.
  - Lack of participation in the SBP over the current six months as evidenced by an average daily participation of fewer than 20 students, fewer than 10 percent enrolled or fewer than 5 percent eligible for free and reduced price meals, whichever is less. The district must investigate the reasons for low participation and substantiate its efforts to increase participation levels before an exemption will be granted. This participation data can be used each subsequent year when requesting an exemption.
  - Even if your school received an exemption for lack of participation for 2015-2016 based on the prior year's data, the law requires you to again request an exemption. Your request should be to continue the exemption based on previous participation data (please specify the year in your request).
- B.** To be granted an exemption based on economic hardship by July 1, 2015 a school district must provide documentation of eligibility for an apportionment of tax effort aid during the prior school year pursuant to paragraph (c) of subdivision 16 of Section 3602 of the Education Law, as determined by the Commissioner based on the best data available on July 1 of the current school year, and must demonstrate that after exhausting all other in local real property taxes.
- C.** To be granted an exemption for other good cause by July 1, 2015 the district must document the investigation of the perceived barrier(s) how they attempted to resolve the problem(s), and their inability to do so.

**Regardless of the exemption option submitted:**

- All parents and taxpayers must be made aware of the district's intent to request an exemption by May 1 of each year and be offered an opportunity to share their concerns with school officials. The request should be communicated via newsletter, memorandum, publication in a local newspaper, etc., so that the message is clearly conveyed to the community. A copy of this public release must also accompany the exemption request.
- Requests for an exemption must be signed by an officer of the board or the superintendent if he/she has been delegated to be an authorized signature.
- All exemption requests should be sent to Child Nutrition Program Administration, 89 Washington Ave, Room 375 EBA Albany, New York 12234 by July 1, 2016.
- Please use the Breakfast Exemption Checklist and include a copy of it with your exemption request.

Should your district decide to implement a School Breakfast Program, contact your Child Nutrition Representative. Application forms and agreements, the SBP will be sent to you for the 2016-2017 school year.

The Department is available to provide you with assistance. Please do not hesitate to contact our office at (518) 473-8781 for any assistance you may need.

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- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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