

**Claims for
Reimbursement**

Internal Controls

The school food authority (SFA) shall establish internal controls which ensure the accuracy of meal counts prior to the submission of the monthly claim for reimbursement under the National School Lunch Program (NSLP) or the School Breakfast Program (SBP), as applicable. At a minimum, these internal controls shall include an on-site review of the meal counting and claiming system employed by each school within the jurisdiction of the SFA; comparisons of daily free, reduced price, and paid meal counts against data which will assist in the identification of meal counts in excess of the number of free, reduced price, and paid meals served each day to children eligible for such meals; and a system for following up on those meal counts which suggest the likelihood of meal counting problems. *7 C.F.R. 210.8(a), 220.11(a)*

On-Site Reviews

Every school year, each SFA with more than one school shall perform no less than one on-site review of the counting and claiming system and the readily observable general areas of review cited under *7 C.F.R. 210.18(h)* (regarding general areas of review by the Texas Department of Agriculture) for each school under its jurisdiction under the NSLP, and for a minimum of 50 percent of schools under its jurisdiction with every school being reviewed at least once every two years under the SBP.

The on-site review shall take place prior to February 1 of each school year. Further, if the review discloses problems with a school's meal counting or claiming procedures or general review areas, the SFA shall ensure that the school implements corrective action and, within 45 days of the review, conduct a follow-up on-site review to determine that the corrective action resolved the problems. Each on-site review shall ensure that the school's claim is based on the counting system and that the counting system, as implemented, yields the actual number of reimbursable free, reduced price, and paid meals, respectively, served for each day of operation.

7 C.F.R. 210.8(a)(1), 220.11(d)(1)

[For the definition of "school food authority," see COA(LEGAL).]

Record Retention

SFA records shall be retained for a period of three years after submission of the final claim for reimbursement for the fiscal year. If audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the issues raised by the audit. *7 C.F.R. 210.23(c)*

**School Meals
Program Options**

If at least ten percent of the students enrolled in one or more schools in a district are eligible for free or reduced-price breakfasts under the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. 1773), the board shall either:

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COB
(LEGAL)

1. Participate in the national program and extend its benefits to all eligible students in the school or schools; or
2. Develop and implement a locally funded program to provide free meals, including breakfast and lunch, to each student eligible for free meals under federal law and reduced-price meals, including breakfast and lunch, to each student eligible for reduced-price meals under federal law, provided that the reduced price may not exceed the maximum allowable rate under federal law.

A district is permitted to participate in the national program at one or more campuses in the district and provide a locally funded program at one or more other campuses in the district.

Free Breakfast

A campus participating in the national school breakfast program or providing a locally funded program in which 80 percent or more of the students qualify under the national program for a free or reduced-price breakfast shall offer a free breakfast to each student.

Waiver

The commissioner of education shall grant a waiver of the free breakfast requirement, not to exceed one year, to a campus if the board votes to request the waiver at the board's annual meeting to discuss and adopt the budget and the proposed tax rate under Education Code 44.044. Before voting to request a waiver, the board shall list the waiver as a separate item for consideration on the meeting's agenda and provide an opportunity for public comment regarding the waiver at the meeting.

Education Code 33.901

Summer Nutrition Program

Unless the Texas Department of Agriculture (TDA) grants a district a waiver, a district in which 50 percent or more of the students are eligible to participate in the national free or reduced-price lunch program under 42 U.S.C. Section 1751 et seq. shall provide or arrange for the provision of a summer nutrition program for at least 30 days during the period in which district schools are recessed for the summer. *Agriculture Code 12.0029(b)*

"Summer nutrition program" means the Summer Food Service Program under 42 U.S.C. 1761. The term includes the seamless summer option under 42 U.S.C. 1761(a)(8). *Agriculture Code 12.0029(a)(2)*

Notice from TDA

Not later than October 31 of each year, TDA shall notify each qualifying district of the district's responsibility concerning provision of a summer nutrition program during the next period in which school is recessed for the summer. *Agriculture Code 12.0029(c)*

- Notice to TDA Each district that receives a notice from TDA shall, not later than January 31 of the year following the year in which the notice was received, inform TDA in writing that the district intends to provide or arrange for the provision of a summer nutrition program during the next period in which district schools are recessed for the summer; or request in writing that TDA grant the district a waiver of the requirement. *Agriculture Code 12.0029(e)*
- Required Documentation* A district that arranges for the provision of a summer nutrition program must enter into an agreement to partner or collaborate with a local governmental entity, educational institution, or private non-profit organization to ensure meal service for children in the district's attendance area and must provide TDA with written documentation of the arrangement no later than April 1 of each year. *4 TAC 25.601(b)*
- Waiver Not later than November 30 of each year, the board of a district that intends to request a waiver must send written notice of the district's intention to the district's local school health advisory council. The notice must include an explanation of the district's reason for requesting a waiver of the requirement. *Agriculture Code 12.0029(d)*
- TDA may grant a district a one-year waiver of the requirement to provide or arrange for the provision of a summer nutrition program only if:
1. The district has worked with the TDA field offices to identify another possible provider for the program in the district, and the district provides documentation, verified by TDA, showing that:
 - a. There are fewer than 100 children in the district currently eligible for the national free or reduced-price lunch program;
 - b. Transportation to enable district students to participate in the program is an insurmountable obstacle to the district's ability to provide or arrange for the provision of the program despite consultation by the district with public transit providers;
 - c. The district is unable to provide or arrange for the provision of a program due to renovation or construction of district facilities and the unavailability of an appropriate alternate provider or site; or
 - d. The district is unable to provide or arrange for the provision of a program due to another specified extenuating

circumstance and the unavailability of an appropriate alternate provider or site; or

2. The cost to the district to provide or arrange for provision of a program would be cost-prohibitive, as determined by TDA using the criteria and methodology established by TDA rule.

Agriculture Code 12.0029(f); 4 TAC 25.601(d), (e)

*Alternate
Provider*

If a district has requested a waiver and has been unable to provide to TDA a list of possible providers for the summer nutrition program, the TDA field offices shall continue to attempt to identify an alternate provider for the district's summer nutrition program. *Agriculture Code 12.0029(i)*

**Community
Eligibility Provision**

The community eligibility provision (CEP) is an alternative reimbursement option for eligible high poverty districts. Each CEP cycle lasts up to four years before the district or school is required to recalculate their reimbursement rate. Districts and schools have the option to recalculate sooner, if desired. A district may elect this provision for all of its schools, a group of schools, or an individual school. Participating districts must offer free breakfasts and lunches for the length of their CEP cycle, not to exceed four successive years, to all children attending participating schools and receive meal reimbursement based on claiming percentages, as described in 7 C.F.R. 245.9(f)(4)(v). *7 C.F.R. 245.9(f); 42 U.S.C. 1759a(a)(1)(F)*

To be eligible to participate in the CEP, a district, group of schools, or school must:

1. Have an identified student percentage of at least 40 percent, as of April 1 of the school year prior to participating in the CEP, unless otherwise specified by the USDA Food and Nutrition Service (FNS). Individual schools participating in a group may have less than 40 percent identified students, provided that the average identified student percentage for the group is at least 40 percent.
2. Participate in the NSLP and SBP for the duration of the four-year cycle. Schools that operate on a limited schedule, where it is not operationally feasible to offer both lunch and breakfast, may elect CEP with FNS approval.
3. Comply with the procedures and requirements specified in 7 C.F.R. 245.9(f)(4) to participate in the CEP.

7 C.F.R. 245.9(f)(3)

[For information on other special assistance certification and reimbursement alternatives, see 7 C.F.R. 245.9.]