

**Public Act 96-0734**  
**Summer Food Service Program**  
**Nutrition Programs**

**SUMMARY**

Public Act 096-0734, which amends Public Act 095-0155, requires school districts that have a summer school program operating during the summer months in a school where 50 percent or more of the students are eligible for free or reduced-price school meals must serve breakfast and/or lunch at each school(s) that meets the criteria above. Schools must serve the meals to the children in their summer school program along with opening their doors to the community. Schools may utilize either the National School Lunch Program's Seamless Summer Option (SSO) or the Summer Food Service Program (SFSP) to help meet these requirements. A chart showing the comparison of these federal nutrition programs is attached.

Either summer food program must be implemented during the summer of 2010 and run for at least the duration of the summer school program. If the school building with a 50 percent or greater free and reduced-price percentage does not operate a summer school program, the school shall make information available regarding the number of children in the school eligible for free or reduced-price school meals upon request by a non-profit organization. A school district may utilize the *opt-out* provision if documentation can be provided showing the expense reimbursement would not fully cover the costs of implementing and operating a program.

**QUESTIONS AND ANSWERS**

**Q. Does this legislation apply to public and non-public schools?**

A. *The law applies to public schools including magnet and charter schools.*

**Q. What if the school does NOT offer summer school?**

A. *If the school is a 50 percent free and reduced-price school and does not offer summer school, then the school is NOT affected by the mandate.*

**Q. What should be included in the *plan* that is referenced in Section 20(b)?**

A. *On letterhead, the school district should include which buildings will be tentatively holding summer school, the estimated number of meals to be served, and estimated dates of service. Keep this plan on file at the school level.*

**Q. Does this legislation apply only to schools participating in the National School Lunch Program?**

A. *The law applies to all public schools whether or not they participate in any federal nutrition program. Reimbursement for these meals is available through participation in either the National School Lunch Program's Seamless Summer Option or the Summer Food Service Program.*

**Q. Does this legislation apply to both elementary and secondary schools?**

A. *Yes.*

**Q. What is considered a summer school program?**

A. *A summer school program, as it pertains to this law, is an academic or enrichment program the school offers during the summer months (May through September) when school is not in session.*

**Q. Do I have to participate in one of the federal nutrition programs?**

A. *Yes, the definition of a Summer Food Service Program in the law specifically states, “the federal child nutrition entitlement program that helps communities serve meals to needy children when school is not in session.”*

**Q. How will I know if my school building has a 50 percent or higher free and reduced-price percentage?**

- A. I. *If the site(s) participates in the National School Lunch Program (NSLP), school boards should use the school’s free and reduced-price eligibility data from their current year’s October Claim for Reimbursement. You can access the data at [http://www.isbe.net/nutrition/htmls/eligibility\\_listings.htm](http://www.isbe.net/nutrition/htmls/eligibility_listings.htm). For school year 2009–2010, use the October 31 data from the 2009 calendar year/2010 fiscal year, which will be posted January 2010.*
- a. *Locate the name of the school/site in Column D (Site Last Name). You may wish to locate the district name in Column B, and then look for the name of the school/site in column D.*
  - b. *Locate the percentage for free and reduced-price eligible located in Column M (Site Percentage Eligible).*
    - i. *If the site has 50 percent or greater free and reduced-price eligible, that site is mandated to operate a school breakfast and/or lunch program during the summer months during their summer school program.*
    - ii. *If the site has less than 50 percent free and reduced-price eligible, that site is not mandated to operate a school breakfast and/or lunch program during the summer months during their summer school program.*
- II. *If the site(s) does not currently participate in the NSLP, school boards should use the low-income data on the Fall Housing Report. You can access the data at [http://www.isbe.net/research/htmls/fall\\_housing.htm](http://www.isbe.net/research/htmls/fall_housing.htm).*
- III. *Divide the site’s low-income data by enrollment to determine eligibility.*
- a. *If the site has 50 percent or greater free and reduced-price eligible, that site is mandated to operate a school breakfast and/or lunch program during the summer months during their summer school program.*
  - b. *If the site has less than 50 percent free and reduced-price eligible, that site is not mandated to operate a school breakfast and/or lunch program during the summer months during their summer school program.*

**Q. Does it matter how many hours the summer program operates?**

A. *No, the law refers to having a breakfast and/or lunch; you must serve breakfast and/or lunch no matter how many hours the program operates.*

**Q. What if the summer program only operates for two weeks?**

A. *The summer breakfast and/or lunch program would operate for the duration of the summer school program no matter how many weeks it operates.*

**Q. What meals do I have to serve?**

- A. *Each eligible school may choose to serve:*
- I. *Breakfast*
  - II. *Lunch*
  - III. *Breakfast and lunch*

- Q. If I am affected by the mandate and choose to serve breakfast and lunch, do I have to open the doors to both meal services?**
- A. Yes, no matter how many meal services a site has; if affected by the mandate, then all meal services must be open to the community.
- Q. Can a school serve students enrolled in a summer school program at a different time than it serves the community?**
- A. Yes, a school may conduct a staggered feeding time to serve enrolled children at one time and the community at another time. The times need to be consecutive and equal in length. Be certain to advertise only community feeding times on all posters and public announcements.
- Q. Are special education programs exempt to the mandate due to individual needs of the children served?**
- A. No, special education programs may wish to use staggered feeding times between enrolled students and the community or utilize the opt-out provision.
- Q. How do I utilize the opt-out provision of the summer meals program?**
- A. A school wishing to utilize the opt-out provision of the program, must petition their regional superintendent. Petition specifications and deadlines are outlined under Subsection (d) of the legislation that is available at <http://www.isbe.net/nutrition/htmls/summer.htm>, under **Public Act 096-0734** (amends Public Act 095-0155). The regional superintendent must provide a list to the Illinois State Board of Education, Nutrition Programs Division, of those schools who filed a petition, whether the petition was granted or denied, and the reasons for the action. If the regional superintendent denies the petition, the school can appeal the decision to the State Superintendent of Education.
- Q. Can a community organization actually operate the summer breakfast and/or lunch program in the school?**
- A. Yes, a community organization can operate the program in the eligible school. The school district should include these details in their plan that is announced by February 15 of each year.
- Q. If the community has an SFSP site near the eligible school, can the school utilize the opt-out provision based on the other SFSP site?**
- A. No, the only way an eligible school can utilize the opt-out provision of the program is to petition the regional superintendent and show that the expense reimbursement would not fully cover the costs of implementing and operating a program.
- Q. When would I have to implement a summer breakfast and/or lunch program if my school is determined to be eligible?**
- A. A program would have to be implemented during the summer following the current school year and each year thereafter, if the school is determined to be eligible and did not receive an exemption from the regional superintendent or if the regional superintendent's decision was not overturned in an appeal to the State Superintendent of Education.
- Q. If I currently contract with a food service management company or a meal vendor for meal services, when should I implement a summer breakfast and/or lunch program?**
- A. If you do not have accommodations for a summer breakfast and/or lunch program incorporated in your current contract, you will be allowed to extend the meal service contract through the summer due to the state mandate. However, the rate(s) charged for summer meals cannot exceed the rate(s) charged for meals during the prior school year.

In order to accommodate the summer program in your contract, you must draft a contract amendment and submit a copy of the amendment to the Nutrition Programs Division. It is highly advised you consult legal counsel regarding any local policies that may affect execution of the amendment and the specific language appropriate for your circumstances. At a minimum, the contract amendment should address/include the following:

- Reason for implementation of the summer program; i.e., state-mandated Summer Food Service Program implementation
- Clause stating the contractor will provide summer meal services
- Applicable dates; i.e., June 1–August 15, 2010
- Meal rate(s)
- Dated signatures of both parties

A contract amendment must be drafted annually at the time of contract renewal until a new procurement is conducted.

**Q. What if we do not currently contract with a food service management company or a meal vendor for meal services and decide to contract for summer meal services only?**

- A. The procurement process you follow will depend on which program is chosen.
- If a sponsor chooses to participate in Seamless Summer Option, the sponsor must follow the NSLP procurement process. You can access the information at [http://www.isbe.net/nutrition/htmls/national\\_school\\_lunch.htm](http://www.isbe.net/nutrition/htmls/national_school_lunch.htm).
  - If a sponsor chooses to participate in SFSP, then the SFSP procurement process will take precedent. You can access information on the procurement process at <http://www.isbe.net/nutrition/htmls/summer.htm>.

**Q. What are the reimbursement rates for the SFSP?**

- A. The 2009\* reimbursement rates for the SFSP are as follows:  
 (\*Note 2010 reimbursement rates will be available/posted after February 1, 2010, at <http://www.isbe.net/nutrition/htmls/summer.htm>.)

	Operating	Administrative	
		Rural or Self-Prep	Other Types of Sites
Breakfast	\$1.6500	\$0.1650	\$0.1300
Lunch/Supper	\$2.8800	\$0.3025	\$0.2500
Supplement	\$0.6700	\$0.0825	\$0.0650

**Q. What are the reimbursement rates for National School Lunch Program’s Seamless Summer Option?**

- A. The 2010 reimbursement rates for SSO are as follows:

<b>NATIONAL SCHOOL LUNCH PROGRAM (including Illinois Free)</b>		
	Less Than 60%	60% or More
Free	\$2.8075	\$2.8275

<b>SCHOOL BREAKFAST PROGRAM</b>		
	Non-Severe Need	Severe-Need
Free	\$1.5875	\$1.8675

**Q. What are the differences between the federal nutrition programs—Seamless Summer Option and the Summer Food Service Program?**

A. *This side-by-side comparison of the Programs serves to highlight similarities and differences between the SFSP and the SSO. This comparison is not limited to just the new requirements under Section 20 of the Childhood Hunger Relief Act, but includes the main provisions of the program.*

Topic	SFSP	SSO
<b>Times of Operation</b>	<ul style="list-style-type: none"> <li>• May–September for traditional school calendar areas</li> <li>• October–April during unanticipated school closures (i.e., emergencies)</li> <li>• During student vacations for schools on a continuous year calendar</li> </ul>	Same as the SFSP
<b>Meal Service Locations</b>	<ul style="list-style-type: none"> <li>• Camps</li> <li>• Churches</li> <li>• Community centers</li> <li>• Housing projects</li> <li>• Libraries</li> <li>• Migrant centers</li> <li>• Parks</li> <li>• Playgrounds</li> <li>• Pools</li> <li>• Schools</li> </ul>	Same as the SFSP
<b>Meal Cost for Children</b>	<p>All meals are free*</p> <p><i>*Although camps are only reimbursed for children who qualify for free/reduced-price meals, camp sponsors may, and usually do, provide meals free of charge to all children.</i></p>	Same as the SFSP
<b>Establishing Site Eligibility</b>	<p><u>Open sites:</u> 50 percent or more of the children in an area qualify for free or reduced-price school meals based on school or census data.</p> <p><u>Enrolled sites:</u> 50 percent or more of enrolled children are eligible for free or reduced-price meals, determined by approved application, or operate in an eligible area.</p> <p><u>Migrant sites:</u> Certification by a migrant organization that the site(s) serves children of migrant farm workers.</p> <p><u>Camps:</u> Offer a regularly scheduled food service as part of an organized program for enrolled children. Must have an income application on file for each camper.</p>	Same as the SFSP
<b>Type of Meals</b>	<ul style="list-style-type: none"> <li>• Breakfast</li> <li>• Lunch</li> <li>• Snack (a.m. or p.m.)</li> <li>• Supper</li> </ul> <p>Except for camp and migrant sites, <b>lunch and supper cannot be reimbursed for the same day by the same site.</b></p>	Same as the SFSP
<b>Maximum Number of Meals</b>	<ul style="list-style-type: none"> <li>• Two for most sites</li> <li>• Three for migrant sites and camps</li> </ul>	Same as the SFSP
<b>Meals—Seconds</b>	Reimbursed up to 2 percent of the first meals	Not reimbursable

Topic	SFSP	SSO
	served	
<b>Commodities</b>	15¢ per meal for public sponsors and self-prep sites (fiscal year [FY] 2010) May receive bonus commodities	Same as the NSLP
<b>Reimbursement Rates</b>	SFSP FY2010 rates	NSLP and SBP applicable free rates
<b>Reimbursement Method</b>	Maximum level for all sites except camps = total meals by type X operating and administrative rates.  Maximum level for camps = total meals by type for eligible children X operating and administrative rates.	Total meals by type X National School Lunch Program (NSLP)/School Breakfast Program (SBP) free rate  Enhanced NSLP funding including: <ul style="list-style-type: none"> <li>• Extra 2¢ per lunch if 60 percent of lunches in second preceding year were free/reduced-price</li> <li>• Severe-need breakfast rate</li> <li>• Total after-school snacks X free rate in eligible areas</li> </ul> (No administrative reimbursement provided)
<b>Monitoring Required by the School Food Authority (SFA)</b>	Pre-Operational Visits before a new or problem site can operate the summer program.  <b>Site visits the first week of operation (can be waived for experienced SFA sponsors).</b>  Site review during first four weeks of operation, followed by monitoring.	Each year, SFAs are required to review sites at least once during the site's operation. The SFA must review the site's compliance with meal counting, claiming, and meal pattern requirements. The state agency (SA) may waive if the site had no problems in the previous summer.
<b>Monitoring Required by State</b>	Review every three years; more frequently based on program size and prior problems identified by the SA.	Coordinated Review Effort (CRE) every five years. Must include one SSO site in a CRE of an SFA participating in the option.
<b>Meal Pattern</b>	Meal pattern must meet 7 CFR Part 225.16(d) standards. However, SFAs may substitute NSLP/SBP meal patterns.	Same as the NSLP/SBP
<b>Eligible Participants</b>	Persons 18 years of age or younger and persons 19 years of age or older with a physical or mental disability, as defined by the SA.	Same as the SFSP
<b>Public Notification</b>	Sponsor must send public media notice regarding program and eligibility.	Public media notice may be done but is not required.  The SFA must state in option request how each site (excluding closed-enrolled sites) will advertise availability of meals to the neighborhood community.
<b>Budget</b>	Annually submit the budget with the application.  <b>(After one year in the program, requirement may be waived for experienced SFA sponsors).</b>	Same as NSLP—None

