

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER i: FOOD PROGRAMS

PART 305
SCHOOL FOOD SERVICE

Section

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AUTHORITY: Implementing and authorized by the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.), Child Nutrition Act of 1966 (42 USC 1771 et seq.), and the School Breakfast and Lunch Program Act [105 ILCS 125].

SOURCE: Peremptory rule adopted at 2 Ill. Reg. 45, p. 83, effective October 25, 1978; codified at 7 Ill. Reg. 14743; amended at 30 Ill. Reg. 17475, effective October 17, 2006; amended at 32 Ill. Reg. 17603, effective October 23, 2008; emergency amendment at 38 Ill. Reg. 14445, effective June 25, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 23192, effective November 19, 2014; emergency amendment at 45 Ill. Reg. 4155, effective March 12, 2021; amended at 45 Ill. Reg. 9907, effective July 22, 2021.

Section 305.5 Definitions

"Competitive food" means all food and beverages that are offered by any person, organization or entity for sale to students on the school campus during the school day, other than meals reimbursed under programs authorized by the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.) and the Child Nutrition Act of 1966 (42 USC 1771 et seq.), as amended by the Healthy, Hunger-Free Kids Act of 2010 (P.L. 111-296).

"Competitive food standards" means the nutrition standards for competitive food promulgated by the U.S. Department of Agriculture. (See 7 CFR 210.11 (2013).)

"Eligible student" means a student eligible for free or reduced price meals under the School Breakfast Program authorized under the Child Nutrition Act of 1966 and/or the National School Lunch Program in accordance with federal regulations found at 7 CFR 245.3 (2014).

"Exempted fundraising day" means a school day on which food and/or beverages not meeting competitive food standards may be sold to students on the school campus.

"Food service area" means any area on school premises where reimbursable meals are served and/or eaten.

"Meal period" means the period of time during which breakfast or lunch is regularly served and the time scheduled for the students to eat the meal.

"Participating school" means any public or nonpublic school that participates in the School Breakfast Program or the National School Lunch Program.

"Reimbursable meal" means a meal meeting the definition of a "federal reimbursable meal", as set forth in regulations governing the School Breakfast Program (7 CFR 220.8 (2014)) or the National School Lunch Program (7 CFR 210.10 (2014)). If the State Superintendent determines that exigent circumstances exist due to an issue related to the health and safety of students, a "reimbursable meal" may encompass any reimbursable meal meeting the requirements set forth in any program under the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.).

"School campus" means all areas of the property under the jurisdiction of the participating school that are accessible to students during the school day.

"School day" means the period of time from the midnight before the start of the official school day until 30 minutes after the end of the official school day.

(Source: Amended at 45 Ill. Reg. 9907, effective July 22, 2021)

Section 305.10 Illinois Free Lunch and Breakfast Programs

- a) In accordance with Section 4 of the School Breakfast and Lunch Program Act [105 ILCS 125/4], every public school shall provide free lunches to students eligible to receive free meals in accordance with 7 CFR 245.3 (2008).
- b) Every public school that offers a free breakfast program as defined in 105 ILCS 125/1 shall provide free breakfasts to students eligible to receive free meals in accordance with 7 CFR 245.3 (2008).
- c) Every public school, at the beginning of each school year, must publicly announce the availability of free lunches and, as applicable, free breakfasts. This public notice may be published in a newspaper of general circulation for the school district, made available on the school district's website, provided in a school newsletter, or included with registration materials. The notice shall at least include the criteria used to determine eligibility for free meals, the process for applying for a free meal, and the name and telephone number of a contact person for the program. Copies of the notice also shall be made available upon request to any interested person.
- d) Public and nonpublic schools may claim State reimbursement for each reimbursable meal provided to students eligible to receive free meals in accordance with 7 CFR 245.3 (2008).
- e) An accurate record of the actual number of free breakfasts and lunches served to children each day must be maintained.

(Source: Amended at 32 Ill. Reg. 17603, effective October 23, 2008)

Section 305.15 Sale of Competitive Food in Participating Schools

- a) Beginning July 1, 2014, each participating school shall adhere to the competitive food standards for the sale of competitive food sold to students on the school campus of the participating school during the school day, except as permitted under subsection (b). (See 7 CFR 210.11 (2013).)
- b) A participating school may annually have no more than the number of exempted fundraising days authorized in this subsection (b).
 - 1) For school year 2014-15, the number of exempted fundraising days shall be limited to:
 - A) No more than nine exempted fundraising days for participating schools with grades 8 and below; and
 - B) No more than 36 exempted fundraising days for participating schools with grades 9 through 12.
 - 2) For school year 2015-16 and after, the number of exempted fundraising days shall be:
 - A) prohibited in participating schools with grades 8 and below; and
 - B) limited to no more than nine exempted fundraising days for participating schools with grades 9 through 12.
 - 3) The provisions of this subsection (b) do not limit the number of foods and beverages that may be sold to students on an exempted fundraising day nor do they limit the number of organizations or clubs to which a participating school may grant permission to offer competitive food for sale to students on an exempted fundraising day.
- c) In order to have exempted fundraising days authorized under subsection (b), a participating school shall:
 - 1) adopt a policy stating the procedures to be used to request an exempted fundraising day, and the process and criteria to review and approve or deny a request;
 - 2) include the fundraising policy adopted under subsection (c)(1) in the participating school's local school wellness policy established in accordance with 42 USC 1758b and any federal regulations issued under

that statute (see proposed rule at 79 Fed. Reg. 10693, February 26, 2014);
and

- 3) maintain for no less than three years a listing of the exempted fundraising days held; these records shall be retained in accordance with the requirements of 7 CFR 210.9(b)(17) (2013).
- d) All revenue from the sale of any food or beverage meeting the competitive food standards sold to students in the food service areas during the meal period shall accrue to the nonprofit school lunch program account.

(Source: Amended at 38 Ill. Reg. 23192, effective November 19, 2014)

Section 305.20 Student Workers

- a) In order for a student to work in the food service area, any public school or any nonpublic school participating in the National School Lunch Program shall obtain written consent from the individual who legally enrolled the student, whether it be the parent, guardian or other individual.
- b) An eligible student shall not be required to work for his or her meals.
- c) A lunch or breakfast served to a student worker cannot be claimed for reimbursement as a free or reduced-price meal unless the student is an eligible student.
- d) A meal served to a student worker is to be recorded in the eligibility category for which the student would qualify if not working.

(Source: Added at 30 Ill. Reg. 17475, effective October 17, 2006)

Section 305.30 Government-Donated Commodities

- a) Any agreement or contract to process government-donated commodities between an eligible receiving agency (school district or institution) and a food supplier or management firm not listed on the electronic Illinois Commodity System must be submitted for approval to the Illinois State Board of Education.
- b) Proper storage facilities must be provided for government-donated food commodities. Such storage facilities shall meet the requirements set forth in federal regulations governing the storage and use of commodities in child nutrition programs (7 CFR 250 (2006)).
- c) Government-donated commodities shall not be stored at private residences or facilities, unless the facility is operated and designed for the storage or refrigeration of food, and the facility meets the requirements of subsection (b) of this Section.
- d) Government-donated commodities shall be ordered in amounts that can be adequately stored without loss or spoilage.
- e) Complaints from participating schools or agencies authorized to receive government-donated commodities about food safety and other food-quality issues concerning those commodities shall be reported to the State Board of Education on the form provided for that purpose.

(Source: Amended at 30 Ill. Reg. 17475, effective October 17, 2006)