# Universal Meals Program IMPLEMENTATION GUIDELINES

CALIFORNIA DEPARTMENT OF EDUCATION

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## ABSTRACT

The CDE (all capitalized terms are defined in “Section II. Definitions” below) has developed these UMP Implementation Guidelines in accordance with *EC* Section 49501.5(e). *EC* Section 49501.5(e) provides in part, “the department may adopt and as necessary revise guidelines in accordance with this section at a publicly noticed meeting … and adoption or revision of the guidelines is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code until July 1, 2023.”

On July 9, 2021, Governor Gavin Newsom signed into law Assembly Bill 130 (Statutes of 2021). Beginning in School Year 2022–23, Assembly Bill 130:

* codified changes to the SMM, requiring LEAs to provide two school meals free of charge during each schoolday to any pupil who requests a meal without consideration of the pupil’s eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period;
* established new requirements for high poverty schools; and
* authorized the CDE to use state funds to provide meal reimbursements for the difference between the sum of the amounts calculated from meals claimed based on the free combined breakfast and lunch reimbursement rates established by the USDA and state meal contribution established in *EC* Section 49559, and the combined federal and state amounts reimbursed for reduced-price and paid meals claimed.

These additional provisions combined with the SMM collectively represent what is referred to as the UMP. The intent of the UMP is to comply with federal SNP requirements and to supplement, not supplant, the federal meal reimbursement. The collection of meal applications for sites operating standard counting and claiming procedures will ensure that LEAs continue to maximize federal reimbursements that support the operation of the SNPs. Alternatively, LEAs that are operating a federal provision will collect alternative income forms for Local Control Funding and Title 1 purposes.

### Update of the State Meal Mandate

Commencing in School Year 2022–23, EC Section 49501.5 requires all LEAs serving pupils in grades kindergarten through grade 12, inclusive of TK, to provide two school meals free of charge during each schoolday to pupils requesting a meal, without consideration of the pupil’s eligibility for a federally-funded free or reduced-price meal, with a maximum of one free meal per meal period. This requirement applies regardless of an LEA’s participation in the federal SNPs administered by the USDA.

### Federal Provision Participation Requirement

*EC* Section 49564.3, which was added by Assembly Bill 130 (Statutes of 2021), states that LEAs with high poverty schools shall apply to operate a federal universal meal service provision, such as the CEP or Provision 2, on or before June 30, 2022. In order to participate in a federal universal meal provision, such as CEP or Provision 2, an LEA must first be approved to participate in the NSLP and SBP. In order to receive state meal reimbursement, LEAs that have a high poverty school in their jurisdiction must abide by the requirements of *EC* Section 49564.3.

### State Meal Reimbursement

To receive state meal reimbursement under *EC* Section 49501.5, an LEA must be an approved SNP sponsor through the CDE, operating in compliance with both the federal SBP and NSLP meal requirements and serving meals qualified for reimbursement through the NSLP and SBP. LEAs are required to abide by the state and federal laws, regulations, and guidelines governing these programs as the UMP is meant to supplement, not supplant, the federal SNPs.

Under *EC* Section 49501.5 all qualifying meals served as a part of the NSLP and SBP will be reimbursed at the federal free rate, with state funds offsetting the lower federal reimbursement rates for paid and reduced-price meals. The CDE will provide eligible LEAs with the state reimbursement for all qualifying reduced-price and paid meals. **LEAs must comply with all federal SBP and NSLP requirements such as, but not limited to, collecting appropriate meal eligibility data and proper meal counting and claiming. Meals determined to be noncompliant with the federal SBP and NSLP are ineligible for federal and state reimbursement.**

Under *EC* Section 49501.5, LEAs choosing not to participate in the federal SNPs are not eligible to receive state meal reimbursement; however, they must still meet the SMM requirements.

**Keywords:** State Meal Mandate (SMM), Universal Meals Program (UMP), Universal Meals, Assembly Bill 130 (Statutes of 2021), school meals, breakfast, lunch, National School Lunch Program (NSLP), School Breakfast Program (SBP), free meal, reduced-price meal, local educational agency (LEA), school, schoolday

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## GUIDELINES OVERVIEW

The CDE Nutrition Services Division has developed these UMP Implementation Guidelines (Guidelines) in accordance with *EC* Section 49501.5(e).

The Guidelines provide guidance to LEAs regarding applicability, eligibility, compliance, use of funds, reimbursement, complaints, civil rights, payment holds, and appeals with respect to UMP. LEAs are subject to additional state and federal statutory and regulatory requirements outside the scope of this guidance when operating the SNPs and implementing the NSLP and SBP. SNPs are also subject to compliance with the *CFR*, *EC*, *CCR*, California *Retail Code*, California *Health and Safety Code*, California contract law, and county and local requirements. Additional guidance can be found in USDA SNP Policy Memoranda, USDA SNP Manuals and Question & Answer documents, and CDE Management Bulletins.

## DEFINITIONS

For the usability of these Guidelines, definitions have been provided with their respective acronyms.

**California Code of Regulations (*CCR*):** The *California Code of Regulations* (*CCR*) is a collection of all of the state regulations created by the executive departments and agencies of the State of California. Title 5, *CCR* (5 *CCR*), Division I, Chapter 15 contains requirements of the Child Nutrition Programs set forth by the California Department of Education.

**California Department of Education (CDE):** The California Department of Education (CDE) is the state agency responsible for administering the National School Lunch Program (NSLP) <https://www.cde.ca.gov/ls/nu/sn/nslp.asp>, NSLP Afterschool Snack Program <https://www.cde.ca.gov/ls/nu/as/>, School Breakfast Program <https://www.cde.ca.gov/ls/nu/sn/sbp.asp>, Special Milk Program <https://www.cde.ca.gov/ls/nu/sn/spm.asp>, Food Distribution Program <https://www.cde.ca.gov/ls/nu/fd/>, NSLP Seamless Summer Option, <https://www.cde.ca.gov/ls/nu/sn/ssfo.asp>, and the Summer Food Service Programs <https://www.cde.ca.gov/ls/nu/sf/> in California.

**California Education Code (*EC)*:**The California *Education Code* (*EC*) is a collection of the state statutes governing California’s kindergarten through grade 12 public schools.

**Child Nutrition and Information Payment System (CNIPS):** The Child Nutrition Information and Payment System (CNIPS) <https://www.cnips.ca.gov/Splash.aspx> is the California Department of Education Nutrition Services Division's web-based system for administering the federal and state nutrition programs.

**Child Nutrition Programs (CNP):** Child Nutrition Programs (CNP) is a collective term used in this document to represent the National School Lunch Program (NSLP), NSLP Afterschool Snack Program, School Breakfast Program, Special Milk Program, Food Distribution Program, NSLP Seamless Summer Option, and the Summer Food Service Programs in California.

**Code of Federal Regulations (CFR):** The *Code of Federal Regulations* (*CFR*) is an arrangement of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. The purpose of the *CFR* is to present the official and complete text of agency regulations in one organized publication and to provide a comprehensive and convenient reference. Specifically, Title 2 of the *CFR* contains regulations that streamline and consolidate government requirements for receiving and using federal awards so as to reduce administrative burden and improve outcomes. Title 7 of the *CFR* contains the principal set of rules and regulations issued by the United States Department of Agriculture regarding agriculture and includes the Child Nutrition Programs.

**Community Eligibility Provision (CEP):** The Community Eligibility Provision (CEP) is a non-pricing School Nutrition Program meal service option for schools and school districts in low-income areas. CEP allows the nation’s highest poverty schools and districts to serve breakfast and lunch at no cost to all enrolled students without collecting household applications. Instead, schools that adopt CEP are reimbursed using a formula based on the percentage of students categorically eligible for free meals based on their participation in other specific means-tested programs, such as the Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families.

**County Office of Education (COE):** County Office of Education (COE) is a local educational agency that is operating under the county superintendent of schools.

**Good Standing:** For local educational agencies participating in any of the School Nutrition Programs (SNPs), good standing status means that they are in compliance with all related state and federal laws and regulations and do not have an active reimbursement hold in the SNPs related to nonsubmission of or unacceptable corrective action documentation [Title 7, *Code of Federal Regulations*(*CFR)*, sections 210.24 and 220.18].

**High poverty school:** A high poverty school is a school that enrolls pupils in kindergarten or in any grade 1 to 12, inclusive, and is eligible to operate under the Community Eligibility Provision, pursuant to Title 42, United States Code, Section 1759a.

**Local Educational Agency (LEA):** A local educational agency (LEA) means a school district, county office of education, or charter school.

**National School Lunch Program (NSLP):** The National School Lunch Program (NSLP) <https://www.cde.ca.gov/ls/nu/sn/nslp.asp> is a federal meal program operated in public and nonprofit private schools, charter schools, and residential child care institutions and is designed to provide culturally relevant, nutritious lunches to children each schoolday. Meals include whole grains, fruits and vegetables, low-fat milk and meat/meat alternate options, and must meet specific nutritional standards described on CDE’s web page at <https://www.cde.ca.gov/ls/nu/he/smi.asp>. Schools participating in the NSLP receive federal meal reimbursement for meals served. Federal meal rates are established at the paid, reduced-price, and free levels and posted on the CDE’s web page <https://www.cde.ca.gov/ls/nu/rs/>.

**Net cash resources (NCR):** Net cash resources (NCR) are monies that are available, or have accrued, to a school food authority’s (SFA) cafeteria fund less cash payable. Title 7, *Code of Federal Regulations*, Section 210.14(b) limits SFA NCR not to exceed three months' average expenditures or other amount established by the state agency. The California Department of Education has established an NCR limitation of six months, until further notice.

**Nutritionally adequate breakfast:** A nutritionally adequate breakfast is one that qualifies for reimbursement under the most current meal pattern requirement for the federal School Breakfast Program, as defined in Title 7, *Code of Federal Regulations*, Section 220.8.

**Nutritionally adequate lunch:** A nutritionally adequate lunch is one that qualifies for reimbursement under the most current meal pattern for the federal National School Lunch Program as defined in Title 7, Code of Federal Regulations, Section 210.10.

**Participation:** Participation is defined as: 1) having a Child Nutrition Program Permanent Single Agreement approved by, and on file with, the California Department of Education as an operator of the National School Lunch Program and School Breakfast Program; and 2) being in Good Standing.

**Paid Lunch Equity (PLE):** The Paid Lunch Equity (PLE) regulation of the National School Lunch Program (NSLP) requires School Food Authorities participating in the NSLP to provide the same level of financial support for lunches served to students who are not eligible for free or reduced-price meals This helps to ensure that federal funds intended for free and reduced-price lunches are not subsidizing paid student meals and that schools have funding available to support serving nutritious meals to all students. [Title 7, Code of Federal Regulations Section 210.14(e)]

**Pupil:** For the purposes of these guidelines, pupil is defined as a student of high school grade or under as determined by the California Department of Education, who is enrolled at an LEA in an educational unit of high school grade or under, including students who are mentally or physically disabled as defined by the State and who are participating in a school program established for the mentally or physically disabled.

**School Breakfast Program (SBP):** The School Breakfast Program (SBP) <https://www.cde.ca.gov/ls/nu/sn/sbp.asp> is a federal meal program operated in public and nonprofit private schools, charter schools, and residential child care institutions and is designed to provide culturally relevant, nutritious breakfast to children each schoolday. Meals must meet specific nutritional standards described on the CDE’s Breakfast Meal Pattern web page, [https://www.cde.ca.gov/ls/nu/he/nfbmpbreakfast.asp.](https://www.cde.ca.gov/ls/nu/he/nfbmpbreakfast.asp) Schools participating in the SBP receive federal meal reimbursement for meals served. Federal meal rates are established at the paid, reduced-price, and free levels and posted on the CDE’s web page [https://www.cde.ca.gov/ls/nu/rs/.](https://www.cde.ca.gov/ls/nu/rs/)

**Schoolday:** California Education Code (*EC)* Section 49550(c) defines schoolday as any day that pupils in kindergarten or grades 1 to 12, inclusive, are attending school for purposes of classroom instruction, including, but not limited to, pupil attendance at minimum days, state-funded preschool, transitional kindergarten, summer school including incoming kindergarten pupils, extended school year days, and Saturday school sessions. *EC* Section 49550(c) does not specify a minimum number of hours for a schoolday.

**School Food Authority (SFA):** A school food authority (SFA) is an administering entity for the operation of school nutrition program(s) (SNPs). SFAs can receive federal meal reimbursements for administering the SNPs.

**School Nutrition Programs (SNPs):** The School Nutrition Programs (SNPs) are a subset of Child Nutrition Programs administered at the federal level by the U.S. Department of Agriculture to support meal, snack and milk services for children in schools and residential care facilities. Programs include the: National School Lunch Program (NSLP) <https://www.cde.ca.gov/ls/nu/sn/nslp.asp>, NSLP Afterschool Snack Program <https://www.cde.ca.gov/ls/nu/as/>, School Breakfast Program <https://www.cde.ca.gov/ls/nu/sn/sbp.asp>, Special Milk Program <https://www.cde.ca.gov/ls/nu/sn/spm.asp>, and the NSLP Seamless Summer Option <https://www.cde.ca.gov/ls/nu/sn/ssfo.asp>. The intent of these programs is to ensure that children are receiving nutritious meals and snacks that promote health and educational readiness and provide children year-round access to healthy foods.

**State Meal Mandate (SMM):** Commencing in School Year 2022–23, California *Education Code* Section 49501.5 requires all local educational agencies serving pupils in grades kindergarten through grade 12, inclusive of transitional kindergarten, to provide two school meals free of charge during each schoolday to pupils requesting a meal, without consideration of the pupil’s eligibility for a federally-funded free or reduced-price meal, with a maximum of one free meal per meal period. Local educational agencies may choose to participate in the federal School Nutrition Programs administered by the U.S. Department of Agriculture to fulfill this mandate. Schools participating in both the School Breakfast Program (SBP) and the National School Lunch Program (NSLP) to meet the SMM requirement are eligble to receive state reimbursement so that meals can be served at no cost to California public school students.

**Transitional Kindergarten (TK):** California *Education Code* Section 48000 defines transitional kindergarten (TK) as the first year of a two-year kindergarten (K) program and thus TK is considered part of the K through grade 12 (K–12) school system.

**United States Department of Agriculture (USDA):** The United States Department of Agriculture (USDA) is the federal agency responsible for administering the Child Nutrition Programs at the federal level. The USDA provides leadership on food, agriculture, natural resources, rural development, nutrition, and related issues based on public policy, the best available science, and effective management. As of February 2023,the USDA is made up of 29 agencies and offices with nearly 100,000 employees at more than 4,500 locations across the country and abroad.

**Universal Meals Program (UMP):** Assembly Bill 130, Chapter 44 (Statutes of 2021) effectively established what has come to be known as California’s Universal Meals Program (UMP). This bill:

* Codified changes to the State Meal Mandate, requiring local educational agencies to provide two school meals free of charge during each schoolday to any pupil who requests a meal without consideration of the pupil's eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal per meal period [*Education Code* (*EC)* Section 49501.5]
* Established new requirements for high poverty schools to apply to operate a federal universal meal service provision, which may include, but is not limited to, the Community Eligibility Provision (CEP) or Provision 2 (*EC* Section 49564.3)
* Authorized the California Department of Education to use state funds to provide state meal reimbursements for the difference between the sum of the amounts calculated from: (1) meals claimed based on the free combined breakfast and lunch reimbursement rates established by the U.S. Department of Agriculture and state meal contribution established in *EC* Section 49559 and (2) the combined federal and state amounts reimbursed for reduced-price and paid meals claimed. [*EC* Section 49501.5(b)]

As a result of these changes, schools participating in both the School Breakfast Program (SBP) and the National School Lunch Program (NSLP) are eligble to receive state reimbursement so that meals can be served at no cost to California public school students.

The intent of the UMP is to comply with federal School Nutrition Program requirements and to supplement, not supplant, the federal meal reimbursement. More information is available on the California Universal Meals web page at <https://www.cde.ca.gov/ls/nu/sn/cauniversalmeals.asp>.

## UNIVERSAL MEALS PROGRAM COMPONENTS

The UMP consists of three components:

* The SMM (*EC* Section 49501.5)
* Requirement for high-poverty schools to apply to operate a federal universal meal service provision, e.g., CEP or Provision 2 (*EC* Section 49564.3)
* State meal reimbursement per *EC* Section 49501.5

Each of these components is discussed in more detail below.

## APPLICABILITY OF THE STATE MEAL MANDATE

Beginning in School Year 2022‒23, and subject to annual appropriation thereafter, LEAs maintaining kindergarten or any grades 1-12, inclusive, must comply with the SMM, as described in *EC* Section 49501.5. *EC* Section 48000 defines TK as the first year of a two-year kindergarten program; thus, TK is considered part of kindergarten in the kindergarten through grade 12 school system, which means that the SMM also applies to TK pupils.

While participation in the UMP is voluntary, SMM compliance is not. The SMM applies specifically to each LEA regardless of a particular school site’s free or reduced-price meal eligibility percentage and whether or not they participate in any of the federal SNPs sponsored by the USDA. LEAs not participating and complying with the federal SBP and NSLP will not be eligible for federal or state meal reimbursements, but still will be required to provide meals in accordance with the SMM. Schools that choose to meet the SMM requirement of *EC* Section 49501.5 without participating in the federal SNPs, must maintain documentation to demonstrate compliance with the SMM (see “Section VI. Documentation Demonstrating Compliance with the State Meal Mandate”).

### Exceptions to the State Meal Mandate

1. Nonclassroom-based charter schools: Nonclassroom-based charter schools are only required to offer one nutritionally adequate breakfast or one nutritionally adequate lunch to needy pupils at no charge on days when pupils are scheduled for educational activities at a school site, resource center, or other satellite facility operated by the nonclassroom-based charter school lasting two or more hours. (*EC* sections 47613.5 and 49552)
2. Pupils not attending school in person at the school site: The SMM does not apply to remote learning, which includes pupils who participate exclusively in independent study or virtual learning not at the school site. However, if pupils are enrolled in remote or virtual learning and are on campus for any period of time during a schoolday, which includes LEA-sponsored field trips, the SMM applies.
3. Private/nonpublic schools: Private/nonpublic schools are generally not required to comply with the SMM. There are instances where pupils attending private/nonpublic, nonsectarian schools remain under the jurisdiction of an LEA per *EC* Section 56365. In these instances, the SMM does apply to each of these public-school pupils. When entering into contracts with private/nonpublic, nonsectarian schools, LEAs are strongly encouraged to include provisions that address the SMM requirements under *EC* Section 49501.5 and compliance with administrative responsibilities (e.g., documentation to support meals).

LEAs planning to seek reimbursement for meals served to public school students attending private/nonpublic schools will need to create two separate sites in the CNIPS and will be required to account for public school students separately from nonpublic school students.

## STATE MEAL MANDATE REQUIREMENTS FOR MEALS

### Meal Service Periods – Breakfast and Lunch

Under *EC* Section 49501.5, LEAs must provide two school meals free of charge during each schoolday.

LEAs may not provide two meals during the same meal period, such as two breakfasts or two lunches to fulfill the SMM requirements; neither can they provide after school meal supplements (snacks) nor supper.

The LEA is considered compliant with *EC* Section 49501.5 when nutritionally adequate meals are made available to all pupils during the established breakfast and lunch meal service periods. It is acceptable for LEAs to leave school meal requests made outside of these established meal times unfilled.

LEAs are not required to alter their meal service times to accommodate partial day attendance, such as those pupils attending TK or kindergarten. Likewise, LEAs are not required to alter their meal times for independent study and virtual students that may be on campus at various times throughout the day. All pupils who are on campus for any part of the schoolday, should be offered the opportunity to eat meals during the meal times established by the LEA, and, for those participating in the SNPs, as entered into CNIPS. Also, for those LEAs participating in the SNPs, it should be noted that LEAs are required to inform school family households of meal service times.

Neither state nor federal regulations establish a minimum amount of time between breakfast and lunch meal service periods. For LEAs participating in SNPs, federal regulations define breakfast as served to a child in the morning hours at or close to the beginning of the schoolday (7 *CFR*, Section 220.2), and requires schools to offer lunch service between 10 a.m. and 2 p.m. [7 *CFR*, Section 210.10 (l)(1)] The CDE encourages program operators to engage with school district administrators to ensure that pupils have adequate time to eat.

LEAs are not required to serve meals to non-pupils.

### Meal Service Modality

The SMM does not require any particular modality of meal service. The LEA may choose the service model within state and federal requirements that works best for them. For example, a nutritionally adequate breakfast is required to be served; however, there is no requirement to serve breakfast after the bell or in the classroom. The CDE does, however, encourage use of these meal service models as they have been shown to increase participation in school meals.

### Nutritiously Adequate Meals

Under *EC* Section 49501.5, the meals provided must be nutritiously adequate meals that qualify for federal reimbursement and are in compliance with state law. Per *EC* Section 49531, a nutritionally adequate **breakfast** is one that qualifies for reimbursement under the most current meal pattern requirements for the federal SBP, as defined in Title 7, *CFR*, Section 220.8 and a nutritionally adequate **lunch** is one that qualifies for reimbursement under the most current meal pattern requirements for the federal NSLP, as defined in Title 7, *CFR,*Section 210.10. This means that school meals must be in compliance with federal regulations governing NSLP and SBP meals. Meals served by schools must also comply with state regulations.

### Meal Pattern Requirements

Failure to meet meal pattern requirements as outlined in *EC* Section 49531 will result in the disallowance of those meals, making them ineligible for both federal and state meal reimbursement. For more information, see “Section XIII. Payment Hold.” If the meals are disallowed, and the LEA is participating in the UMP, the LEA will have the right to appeal that decision; see “Section XIV. Appeal Rights.”

### Adhering to Meal Pattern Requirements During Comingled Meal Service Periods

Questions may arise about adhering to meal patterns when serving preschoolers at the same time as older pupils (comingled). Schools serving preschool pupils at the same time and in the same service area as TK through grade 5 pupils may use the NSLP and SBP kindergarten through grade 5 meal pattern. The service area refers to the place where pupils pick up or choose their meal items. Additionally, TK pupils are not required to be served the preschool meal pattern and can instead be served using the same meal pattern as the kindergarten pupils, such as kindergarten through grade 5. When serving preschoolers, NSLP and SBP meals comingled with any grades TK through grade 5 are eligible for state and federal reimbursement.

Schools serving preschool pupils separately from other age groups must use the NSLP and SBP preschool meal pattern. Schools providing meals to preschool pupils under the Child and Adult Care Food Program are not eligible for the UMP state reimbursement. Meals served to preschool pupils are only eligible for the state reimbursement if they are claimed under the NSLP and SBP, as described above.

## DOCUMENTATION DEMONSTRATING COMPLIANCE WITH THE STATE MEAL MANDATE

### Local Educational Agencies Participating in the Universal Meals Program

For LEAs participating in NSLP and SBP, the documentation and reporting requirements specified in the federal SNPs [including, but not limited to, 7 *CFR* sections 210.15, 220.7(e)(14), and 2 *CFR* Part 200] as well as 5 *CCR* Section 15557 provide sufficient documentation to demonstrate compliance with the SMM under *EC* Section 49501.5.

LEAs participating in the federal SNPs must maintain all CNP records for a period of three years after the end of the fiscal year to which they pertain, unless audit or investigative findings have not been resolved, in which case the records shall be retained until all issues raised by the audit or investigation have been resolved. [7 *CFR*, sections 210.9(b)(17) and 220.7(e)(13)]

LEAs operating under a Provision, such as the CEP or Provision 2, must retain documentation used to establish the base-year and all extensions for three fiscal years, plus the current year beyond the submission of the last monthly claim for reimbursement which utilized base-year data. [7 *CFR*, Section 245.9(h)(1)]

If an LEA participating in the SNPs (SBP and NSLP) fails to collect and retain documentation demonstrating compliance, the CDE may disallow meals and expenses and determine the LEA to be noncompliant with the UMP requirements. If an LEA has only partial documentation, the disallowance will target the portion not supported by the following documents:

* Appropriate household free or reduced-price meal documents for each pupil;
* Documents showing the breakfasts and lunches served meet the most current federal meal pattern requirements for breakfast and lunch;
* Documents showing sufficient number of breakfasts and lunches were prepared and served to support the total meals claimed; and
* Daily point of service meal counts supporting the total meals claimed.

### Local Educational Agencies Not Participating in the Universal Meals Program

LEAs meeting the SMM (*EC* Section 49501.5) without participating in the SNPs must maintain records in accordance with applicable state and federal laws and regulations.

LEAs who do not operate the federal SNPs should develop internal policies and procedures that can demonstrate compliance with *EC* Section 49501.5, including:

* maintaining proof that the LEA provided one free breakfast and one free lunch during each schoolday to any pupil who requested a meal without consideration of the pupil’s eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period.
* maintaining proof that meals provided by the LEA are nutritiously adequate meals that qualify for federal reimbursement. (*EC* Section 49531)

Examples of documentation based on a meal service model that can be used to demonstrate compliance with *EC* sections 49501.5 and 49531 include, but are not limited to:

* Self-preparation: menus, menu production records (meal preparation, menu and serving sizes, and nutrient analysis), policy and procedures for meal service (breakfast and lunch), meal counts, food invoices, or equivalent documentation
* Vended meals: transport records (delivery receipts); ordering and service information, menus and food lists including serving sizes, vending contract, policy and procedures for meal service (breakfast and lunch), meal counts served, invoices, or equivalent documentation

## UNIVERSAL MEAL PROGRAM – LOCAL EDUCATIONAL AGENCY APPLICATION

There is no separate application for the state meal reimbursement available through the UMP. The CDE will apply state meal reimbursement to qualifying NSLP and SBP reimbursement claims made by eligible, participating LEAs.

## MAXIMIZING FEDERAL FUNDING

Proper SNP eligibility determinations are required and critical for maximizing federal funding. All federal regulations apply for the determination of eligibility for the NSLP and SBP. (7 *CFR*, sections 245.6 and 245.9) For eligible LEAs, participating in a federal provision program, such as CEP or Provision 2, maximizes federal meal reimbursement. For all other LEAs operating standard meal counting and claiming, ensuring proper pupil eligibility determinations through collecting meal applications annually and conducting direct certification maximizes federal meal reimbursement. Direct certification must be conducted at or around the beginning of the school year, three months after the initial effort, and six months after the initial effort at minimum, and LEAs are encouraged to conduct it monthly. [7 *CFR*, Section 245.6(b)(3)(ii)(A)]

### Federal Provision Programs

Federal provision programs such as CEP or Provision 2 can increase the amount of federal reimbursement provided to LEAs, thereby reserving and maximizing the use of state meal reimbursement funds.

*EC* Section 49564.3 requires LEAs with high poverty schools in their jurisdiction to apply to operate a federal universal meal service provision, which may include, but is not limited to, the CEP or Provision 2, pursuant to Section 1759a of Title 42 of the United States Code. A **high poverty school** is a school that enrolls pupils in K or in any grade 1 to 12 and is eligible to operate under the CEP.

### Determining Pupil Eligibility for Free and Reduced-Price Meals

LEAs participating in NSLP and SBP must continue to establish every pupil’s eligibility for free and reduced-price meals. Note that alternative income forms cannot be used to establish a pupil’s eligibility for the SBP and NSLP because they do not meet the federal requirements for meal applications.

1. Meal Applications

a. LEAs Operating Standard Counting and Claiming or Establishing a Provision 2 Base Year:

All federal regulations apply for the determination of eligibility for the NSLP and SBP. (7 *CFR*, sections 245.6 and 245.9) As such, LEAs operating standard counting and claiming or establishing a Provision 2 base year are required to collect household meal applications. The purpose of the household meal application is to certify a pupil’s eligibility for free or reduced-price meals or free milk benefits.

b. Exception to Collecting Meal Applications:

LEAs operating the CEP cannot collect meal applications (7 CFR 245.9(f)(4)(iv)) and are not required to conduct verification activities. Base-year certifications are determined solely by direct certification data. LEAs operating the CEP also do not have to claim pupils by their individual eligibility status.

c. Alternative Income Forms:

The purpose of the alternative income form is to identify that a pupil’s household meets the income eligibility criteria so that they may be included in the LEA’s unduplicated pupil count used to determine supplemental and concentration grants under the Local Control Funding Formula. Alternative Income Forms cannot be used to establish a pupil’s eligibility for the SBP and NSLP because they do not meet the federal requirements for meal applications.

2. Direct Certification: Direct certification is the federally mandated process that LEAs must use to certify children who are eligible for free meals or milk without completing an application. LEAs may implement direct certification by using a local data match through their county’s department of social or welfare services, and by using the CDE’s California Longitudinal Pupil Achievement Data System.

a. LEAs Operating Standard Counting and Claiming:

LEAs operating standard counting and claiming must conduct direct certification at a minimum three times per school year as previously described. [7 *CFR*, Section 245.6(b)(3)(ii)(A)]

b. LEAs Operating NSLP and SBP During a Provision 2 Non base Year or Under Community Eligibility Provision:

LEAs operating NSLP and SBP during a Provision 2 non base year or under CEP must conduct direct certification at least once annually [7 CFR 245.6(b)(1)(v)].

### Meal Counts Submitted for Reimbursement

Accurate counting and claiming of meals served by eligibility category (free, reduced-price, or paid) is an important component of maximizing federal reimbursement. Meal counts submitted for reimbursement must be claimed in accordance with the amount of free, reduced-price, and paid meals served. It is the responsibility of the LEA to ensure proper meal counting and claiming, benefit issuance, and eligibility determinations as described by federal regulations including, but not limited to, 7 *CFR* sections 210.8(a) and (c), 210.15(b), 220.9(a), 220.11, 245.6, 245.6(a), 245.9, and the Permanent Single Agreement.

## UNIVERSAL MEAL PROGRAM REIMBURSEMENTS AND CLAIMS

### Universal Meal Program Reimbursement Requirements

LEAs may receive state meal reimbursement under *EC* Section 49501.5, provided the entity:

* participates in NSLP **and** SBP;
* complies with all state and federal requirements and guidance;
* fulfills the requirement for high-poverty schools to apply to operate a federal universal meal service provision, e.g. CEP or Provision 2 (EC Section 49564.3);
* serves meals eligible for reimbursement through the SBP and NSLP, and *EC* Section 49531; and
* is in Good Standing with the CDE.

The state meal reimbursement under *EC* Section 49501.5 is subject to annual budget appropriation. Through budget appropriations, the State provides supplemental funding so that all qualifying meals served as a part of the UMP are reimbursed at the federal free reimbursement rate and up to the total amount approved in the state budget. This means that qualifying LEAs participating in UMP will receive: 1) the federal reimbursement rate for meals served by pupil eligibility type; plus 2) state meal reimbursement when reduced-priced and paid meals are served. When combined, all qualifying meals will be reimbursed at the federal rate for free meals.

Upon the direction of the State Legislature, meal reimbursement may be prorated if the annual appropriation is insufficient to fully fund all eligible reimbursement claims.

It is the responsibility of the LEA to have internal controls to ensure that all reimbursement claims are correct and have been certified prior to submission. [7 *CFR*, sections 210.7(c) and 210.8(a)]

### Universal Meal Program Claims

The state meal reimbursement under UMP will follow the same claiming processes and procedures in accordance with Title 7, *CFR*, sections 210.7(a) and 210.8(b), and as outlined in the USDAs Guidance in effect at the time of claim submission for Local and State Agencies on 60-Day Claim Submission and 90-Day Reporting Requirements for CNPs. Failure to submit claims on time and in accordance with USDA guidance will result in nonpayment of both the federal and state meal reimbursements. LEAs may submit a late claim request following the USDAs Guidance in effect at the time of claim submission for Local and State Agencies on 60-Day Claim Submission and 90-Day Reporting Requirements for CNPs.

Meals determined to be noncompliant with the federal SBP and NSLP, will be ineligible for the state meal reimbursement under the UMP, as well as the federal reimbursement under SBP and NSLP. State and federal funds received for noncompliant meals must be returned to the CDE.

LEAs choosing not to participate in the SNPs or UMP are not eligible for the state or federal reimbursement; as a result, subsections C-F below do not apply.

### Depositing Universal Meal Program Reimbursement

For all LEAs participating in the federal SNPs, expenses and revenues for food and nutrition must be tracked separately in accordance with Title 7, *CFR*,Section 210.14. All federal, state, and local revenues, payments, and CNP reimbursements (including UMP reimbursement) must be deposited in a non-profit food service account or Cafeteria Fund, also known as a Fund 13 account. Funds may be deposited using Resource Code 5310: Child Nutrition: School Programs. Such funds must be used solely for the operation and improvement of CNPs and comply with federal regulations and state laws.

**Note:** The CDE is required to monitor all LEAs participating in the federal SNPs, through review, audit, or by other means, and the NCR of the nonprofit school food service account of each program operator participating in the SNPs. Pursuant to Title 7, CFR, section 210.14(b), SFAs shall limit NCR to an amount that does not exceed three months’ average expenditures for its nonprofit school food service or such other amount as may be approved by the state agency in accordance with Title 7, *CFR*, Section 210.19(a). On July 1, 2022, California’s agency, the CDE, increased the NCR limitation to six months’ average operating expenditure, which was in effect in California when this guidance was published. LEAs are responsible for knowing, and subject to, any subsequent limit on NCR issued by CDE or imposed by law or regulation.

### Allowable Uses of Universal Meal Program Reimbursements

The state meal reimbursement provided under *EC* Section 49501.5, has the same allowable costs requirements as outlined in 7 *CFR*, Section 210.14.

These reimbursements are intended to support the provision of nutritiously adequate school meals to all pupils and must be used in the manner described in *EC* sections 38100 and 38091. *EC* Section 38100 establishes that adequate housing for cafeterias is a charge against the district and imposes parameters for other child nutrition expenses in accordance with applicable state and federal laws and regulations. *EC* Section 38091(a) states that “the cafeteria fund shall be used only for those expenditures authorized by the governing board of a school district as necessary for the operation of school cafeterias, including, but not limited to, expenditures for the lease or purchase of additional cafeteria equipment for the kitchen or central food processing plant, vending machines and their installation and housing, and computer equipment and related software.” Costs must also meet the requirements established in Title 2, *CFR*, Part 200.

### Universal Meal Program Reimbursements to Local Educational Agencies for Public School Pupils Attending Nonpublic Schools

Qualifying meals served to public school pupils at nonpublic schools are eligible for both state and federal meal reimbursement under the UMP. In order for these meals to receive reimbursement, the LEA must establish the nonpublic school as a site in the CNIPS under its administration for the purposes of the NSLP and SBP.

### No Universal Meal Program Reimbursements for Private School Pupils Attending Nonpublic Schools

Meals served to private school pupils at a nonpublic school as a part of the SBP and NSLP are only eligible for federal meal reimbursement; they are not eligible for state meal reimbursement.

State meal reimbursement under *EC* Section 49501.5 derives from Proposition 98 funds. Under Article XVI, section 8(a) of the California Constitution, Proposition 98 funds are “to be applied by the State for support of the public school system and public institutions of higher education.” Private schools are not part of the public school system.

## NONPROGRAM FOODS

LEAs can sell nonprogram foods (e.g., a complete second meal, a la carte) regardless of whether or not they are participating in the UMP. If an LEA is participating in the UMP and chooses to sell nonprogram foods, they must continue to price items to ensure the percent of total revenue generated from their nonprogram foods sales is equal to or greater than the percent of total food costs, in accordance with Title 7, *CFR*,Section 210.14(f)(2). Examples of commonly sold nonprogram foods include: second meals to pupils; adult meals; and competitive foods (includes a la carte items and individual food and beverage items sold in vending machines). Nonprogram foods are not eligible for state or federal reimbursement.

## PAID LUNCH EQUITY

PLE requirements do not apply to sites participating in the UMP. While PLE has historically been a requirement for LEAs participating in the SBP and NSLP, the USDA has issued an exemption to states and sites participating in the UMP. (USDA Policy SP 39-2011-Revised) Section 210.14 (e) of Title 7, *CFR* requires that SFAs establish paid lunch prices in accordance with federal regulations. Further, Title 7 *CFR*, Section 210.14(e)(5)(i), allows LEAs to reduce the average price of paid lunches if the State agency ensures that funds are added to the nonprofit school food service. Allowable nonfederal funding sources include per-lunch reimbursements for paid lunches provided by the State or local governments. [7 *CFR*, Section 210.14 (e)(5)(iii)(A)] Thus, because the state reimburses the cost of paid lunches served under the UMP, the PLE requirement does not apply to sites participating in the UMP.

LEAs meeting the SMM (*EC* Section 49501.5) requirements without participating in the federal SNPs are not subject to federal PLE requirements.

## COMPLAINTS

The CDE will follow the process outlined in Title 5, *CCR,* sections 15580-15584 for complaints alleging an LEA or program operator has violated *EC* Section 49501.5.

## PAYMENT HOLD

The CDE may place a reimbursement hold for LEAs participating in the SNPs if an LEA fails to complete corrective action as a result of an administrative review, audit, or complaint investigation. The payment hold will stay in effect until such time as the LEA provides corrective action deemed sufficient by the CDE.

## APPEAL RIGHTS

An LEA participating in the SNPs can appeal when the CDE takes fiscal action against the LEA. Specifically, LEAs can appeal a notice of reimbursement hold and fiscal action as a result of an administrative review, audit, or complaint investigation in accordance with the instructions for appeal contained in the notice. The CDE will follow the appeal process which is outlined in the Appeal Process for Child Nutrition Programs web page, <https://www.cde.ca.gov/ls/nu/cnpappeals.asp>.

LEAs not participating in the federal SBP and NSLP do not have appeal rights.

## CIVIL RIGHTS

LEAs participating in the SNPs shall follow federal civil rights requirements. Under Title 7, *CFR*, sections 210.23(b) and 220.13(f)(4) and Title 41, *CFR*, sections 60-1.4, LEAs cannot deny a child benefits or otherwise discriminate against a child or employee because of race, color, national origin, age, sex (including gender identity and sexual orientation), or disability.

In addition to the federal requirements, pursuant to California *EC* Section 220, “no person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including immigration status, in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid.” This requirement applies to school meal service operations under the SMM.

## GUIDELINE AUTHORITY

The CDE has developed these Guidelines in accordance with Article 8, Section 49501.5 of the California *Education Code* (as amended by Statutes 2021), Chapter 252, Section 26 and effective September 23, 2021, which allows the CDE to adopt, and as necessary, revise guidelines until July 1, 2023.

## EFFECTIVE DATE OF GUIDELINES

These Guidelines shall be effective upon adoption by the CDE following the completion of the process described in *EC* Section 49501.5.

## NONSUBSTANTIVE CHANGES IN GUIDELINES

If the final Guidelines require nonsubstantive changes, the CDE will provide notice of the changes to LEAs via listserv and post the amended Guidelineson the UMP web page.