Date: June 8, 2018

To: Public School Food Authorities

Non-Public School Food Authorities

Charter School Food Authorities

From: Paula Tyner-Doyle, State Director

# Subject: Revised - New York State Legislation: Prohibition Against Meal Shaming

The 2018-2019 Executive Budget amended New York State Education Law 908 as added by Section 2 of Part B of Chapter 56 of the laws of 2018 ***Prohibition Against Meal Shaming***. Beginning with school year 2018-2019, all public, non-public and charter school food authorities (SFAs) that require students to pay for a school breakfast and/or lunch meal must develop a written plan to ensure that a student whose parent or guardian has unpaid meal charges is not shamed or treated differently than a pupil whose parent or guardian does not have unpaid school meal charges.

The Prohibition Against Meal Shaming plan should be reasonable, well-defined and maintain the integrity and dignity of students and households. This new legislation requires SFAs to provide students with the reimbursable meal of their choice and specifically identifies other prohibited actions to decrease student distress or the embarrassment associated with not having adequate funds to pay for a school meal or having outstanding school meal debt.

SFAs are required to submit their completed plans to the New York State Education Department (SED) electronic mailbox via cn@nysed.gov by July 1, 2018. After submission of the plan, the SFA must adopt and post the plan on its school’s website.

SFAs must also demonstrate that all applicable staff are trained and fully understand how to properly implement the SFA policy. SED has developed a comprehensive webinar and corresponding guidance materials to assist SFAs to train their school personnel. The webinar will be posted on www.cn.nysed.gov and links will be provided for SFAs to access the webinar and resources. SED staff is also available to provide technical assistance for SFAs that need additional guidance to help affected parents or guardians qualify their children for free or reduced price meals, if applicable.

The new State plan has several of the same or similar requirements as the federal National School Lunch Program (NSLP) Unpaid Meal Charge policy that took effect July 1, 2017. SFAs may opt to amend this policy to include the new State criteria or can develop a separate State specific plan. SED has also created a template plan that SFAs can use to meet both the State and federal requirements. The template can be accessed [here](http://www.cn.nysed.gov/content/meal-charge-and-prohibition-against-meal-shaming-policy-template). This template is an example and is intended to serve as an illustration of best practices in developing a meal shaming policy in accordance with federal and state statutes, rules and regulations. This information is provided as general guidance and best practices and does not supersede the relevant laws, rules and regulations that apply. Should you have specific questions about the application of the specific laws, you should seek the advice of legal counsel.

The following is the specific criteria that is required to be included in the plan, but is not limited to:

1. A statement that the school or school district shall provide the student with the student’s choice of a reimbursable meal, if the student requests one. Charging of items outside of the reimbursable meals (i.e., a la carte items, adult meals, etc.) is expressly prohibited.
2. A procedure to allow parents and guardians to indicate to the SFA that they would not want their child to charge a meal upon request.
3. An explanation of how foodservice and school staff will be trained to ensure that the school’s policy is implemented correctly and consistently.
4. A process to provide affected parents or guardians assistance to establish eligibility for reduced price or free meals for eligible children.
5. A notification procedure that the SFA will use to inform the parent or guardian that their child’s account balance is exhausted and unpaid meal charges are due. The notification may include a repayment schedule, but the school cannot charge any interest or fees in connection with the meals charged. Convenience fees associated with the use of the school’s secure on-line payment system i.e. MySchoolBucks, PayPams, etc. continue to be allowable.
6. A communication procedure to encourage eligible families to enroll children for free or reduced price meals that includes a process for determining eligibility when a student owes money for five or more meals, wherein the SFA shall:
   * Make every attempt to determine if a student is directly certified and eligible for free meals
   * In addition to sending home the income application at the beginning of the year, make two additional attempts to encourage the parent or guardian to complete an income application on behalf of the child
   * Contact the parent or guardian to offer assistance to complete the application and to determine if there are other factors of why the child does not have sufficient food or funds to purchase a meal and offer other assistance as appropriate
7. A clear explanation of the procedures designed to decrease student distress or embarrassment that identifies the following prohibited actions:

* Announcing or publicizing the names of children with unpaid meal charges
* Sending clearly marked notices home with children who have an outstanding balance
* Using hand stamps, wristbands, stickers, or other physical markers to identify children with outstanding meal charges
* Requiring children with unpaid meal charges to do chores or other work
* Throwing a child’s meal in the trash
* Take any action directed at the student to collect unpaid meal charges
* Discuss any outstanding meal debt in the presence of other students
* Serving alternate meals (i.e., cheese sandwich)
* Using a debt collector

1. Establish a process to ensure all eligible students are identified as eligible for free or reduced price meals by:

* Maximizing the use of Statewide Direct Certification (DCMP) by accessing the DCMP data. NYSED provides updated DCMP data monthly. SFAs may consider the effective date of eligibility for free school meals benefits to be the date of the automated data matching file which first identifies the child as eligible. See SP51-2014: Eligibility Effective Date for Directly Certified Students for more details.
* Providing a copy of the income application in each student’s enrollment packet and/ or include written instructions of how to access and complete an on-line version of the application or to request a paper application at no cost. Cleary instruct parents/guardians that they are not required to complete the application if they have already been or are eligible to be directly certified.
* Encourage families to apply for free and reduced price meals and provide materials in a language and at a reading level families can understand. SFAs may establish the date of an application’s submission as the effective date of eligibility.
* Establish procedures to coordinate with the school liaisons to ensure all migrant, foster, homeless and runaway children are immediately certified for free meals.
* In extenuating circumstances, the SFA may complete an application on behalf of a child given sufficient cause and backup documentation supporting the child’s eligibility. See federal regulations 7 CFR, Part 245.6 (d) for additional guidance regarding administrative prerogative.

Additional Eligibility Requirements and Recommendations:

* SFAs **MUST** provide 30 day carryover of eligibility for free and reduced price students from the previous school year during the first 30 operating days of a new school year, or until a new eligibility determination is made, whichever is first.
* Students transferring from a Community Eligibility Provision (CEP) or Provision 2 (P2) participating school to a non-participating school **MUST** be provided 30 days free eligibility or until a new eligibility determination is made, whichever comes first.
* SFAs should accept the free and reduced price eligibility from transfer students.
* SFAs should maximize the use of CEP and P2 where appropriate.
* At the discretion of the SFA, the non-profit school food service account funds may be used to lower or eliminate the reduced price meal cost to the student.

The Prohibition Against Meal Shaming legislation does not intend to allow for the unlimited accrual of debt. SFAs must include a clear explanation in their plan describing the collection procedures that will be implemented to recoup unpaid meal charges. The SFAs procedures shall be directed to the parent or guardian and if possible should provide repayment options. SFAs cannot use a debt collector as defined in section eight hundred three of the federal consumer credit protection act, 15 U.S.C. Sec. 1692a to engage in collection activities on behalf of the SFA. The SFA must also ensure that the SFA’s non-profit foodservice account is reimbursed for all outstanding meal charges by no later than June 30th of each school year.

Funds used to reimburse the foodservice account must be taken from a non-federal source such as the school’s general fund. All funds recouped after the non-profit foodservice account is made whole should be deposited into the general fund or other account used to replenish the school foodservice account. The SFA must maintain adequate documentation to substantiate the transfer of funds for the equivalent of all unpaid meal debt to the school food service account each year.

For additional guidance, refer to USDA’s web page “School Meals – Unpaid Meal Charges” at <https://www.fns.usda.gov/school-meals/unpaid-meal-charges>.

**Unpaid Meal Charges Policy Guidance**

* [SP 23-2017:](https://www.fns.usda.gov/school-meals/unpaid-meal-charges-guidance-and-q) Unpaid Meal Charges: Guidance and Q&A
* [SP 47-2016](https://www.fns.usda.gov/unpaid-meal-charges-clarification-collection-delinquent-meal-payments): Unpaid Meal Charges: Clarification on Collection of Delinquent Meal Payments
* [SP 46-2016](https://www.fns.usda.gov/unpaid-meal-charges-local-meal-charge-policies): Unpaid Meal Charges: Local Meal Charge Policies

# Other Relevant Policy Guidance

* [SP 51-2016](https://www.fns.usda.gov/ensuring-year-long-eligibility-school-lunch-and-school-breakfast-programs): Ensuring Year-long Eligibility in the School Lunch and Breakfast Programs
* [SP 43-2016:](https://www.fns.usda.gov/ensuring-access-free-and-reduced-price-school-meals-low-income-students) Ensuring Access to Free and Reduced Price School Meals for Low-Income Students
* [SP 37-2016](https://www.fns.usda.gov/meaningful-access-persons-limited-english-proficiency-lep-school-meal-programs-guidance-and-qas): Meaningful Access for Persons With Limited English Proficiency (LEP) in the School Meal Programs: Guidance and Q&As
* [SP 51-2014](https://www.fns.usda.gov/eligibility-effective-date-directly-certified-students): Eligibility Effective Date for Directly Certified Students
* [SP 17-2014](https://www.fns.usda.gov/discretionary-elimination-reduced-price-charges-school-meal-programs): Discretionary Elimination of Reduced Price Charges in the School Meal Programs
* [SP 11 CACFP 06 SFSP 11-2011](https://www.fns.usda.gov/effective-date-free-or-reduced-price-meal-eligibility-determinations): Effective Date of Free or Reduced Price Meal Eligibility Determinations
* [FNS Instruction 113-1](https://www.fns.usda.gov/sites/default/files/113-1.pdf): Civil Rights Compliance and Enforcement – Nutrition Programs and Activities

# Handbooks and Guides

* [2017 Eligibility Manual for School Meals](https://www.fns.usda.gov/2016-edition-eligibility-manual-school-meals)
* [2017 Overcoming the Unpaid Meal Challenge: Proven Strategies from Our Nation’s Schools](https://www.fns.usda.gov/sites/default/files/cn/unpaidmealcharges_guide.pdf)

# Presentations

* [Coping with Unpaid Meal Charges (July 2016)](https://www.fns.usda.gov/sites/default/files/cn/2016SNA-ANCunpaidmealcharges.pdf)
* [The Challenges of Unpaid Meals: Proven Strategies from Our Nation’s Schools (February 2016)](http://origin-qps.onstreammedia.com/origin/usda/%5BInbox%5D/webinars/022316/FNS%20Madeline%20Becker%202-23-16CAPSFINAL.mp4)

# Useful Links

[Letter: USDA-FNS Undersecretary to Chief State School Offices - Unpaid Meal Charges](https://schoolnutrition.org/uploadedFiles/News_and_Publications/News/UnpaidMealCharges.pdf)

Alternative Counting and Claiming Options

* [Community Eligibility Provision Resource Center](https://www.fns.usda.gov/school-meals/community-eligibility-provision-resource-center)
* [School Meals - Provisions 1, 2, and 3](https://www.fns.usda.gov/school-meals/provisions-1-2-and-3)

Limited English Proficiency

* [FNS Limited English Proficiency Webpage](https://www.fns.usda.gov/cr/limited-english-proficiency-lep)
* [School Meals - Translated Applications](https://www.fns.usda.gov/school-meals/translated-applications)

[NYSED Template: Prohibition Against Meal Shaming and Student Charge Policy](http://www.cn.nysed.gov/content/meal-charge-and-prohibition-against-meal-shaming-policy-template)