

Date: September 19, 2024

Prepared By: Conor L. Hicks

Rule Citation: NMAC 6.12.16, Healthy Universal School Meals

Overview of Adopted Rule

Agency: Public Education Department

Rulemaking Action: New Rule

Date Adopted: September 12, 2024

Effective Date: September 24, 2024

Rule's Purpose: The adopted rule establishes the specific meal quality improvement requirements for school food authorities (SFAs) to receive state reimbursement for the provision of school meals to all enrolled students.

Summary of Adopted Rule NMAC 6.12.16: Healthy Universal School Meals

The New Mexico Public Education Department (PED) adopted a new rule to direct implementation of the Healthy Universal School Meals program as authorized by [Laws 2023, Chapter 30, Senate Bill 4](#). The rule establishes the certification criteria of meal quality improvement requirements for school food authorities (SFAs) to receive state reimbursement for the provision of school meals to all enrolled students.

The requirements set by NMAC 6.12.16 are much narrower than the initial proposal. Namely, the adopted rule eliminates the two-tiered set of meal quality improvement requirements found in the proposed rule. Instead, all SFAs will be required to comply with a set of three overarching standards:

- (1) 50 percent of weekly meal pattern components must be freshly prepared;
- (2) Achievement of the lowest level of food waste through share tables and up to 20 minutes of seat time for K-5 students; and
- (3) and use of New Mexico-grown foods.

Each standard has several further points of clarification to account for different operational approaches among SFAs in the state.

There are no requirements for composting, school-based gardens, recess scheduling, or nutrition education, as there were in the initial proposal. The adopted rule does not specify the method by which student and family feedback is gathered.

The adopted rule defines “freshly prepared” as “meal pattern components that are prepared and cooked for same day consumption utilizing scratch cooking or speed scratch preparation methods.” Public comment had noted the lack of a definition in the proposed version.

Additionally, the adopted rule outlines annual PED certification procedures and the required documentation SFAs must submit to the department.

Impact

The adopted rule creates specific requirements for the operation of the Healthy Universal School Meals program by SFAs to receive full state reimbursement. Meal quality improvement requirements are significantly scaled back in the adopted rule compared to the proposed version.

The annual cost of the program could fluctuate based on the number of SFAs complying with NMAC 6.12.16's provisions. Prior to the adoption of this rule, all SFAs received full reimbursement. It is now possible for non-compliant SFAs to receive only partial state reimbursement, with remaining costs having to be covered by the specific SFA.

Technical Issues

The proposed version of the rule had several instances where provisions departed from statutory language. The adopted rule eliminates these instances, though both statute and the adopted rule use language that could potentially limit seated lunch time.

Seat Time Requirements. To reduce food waste, both Laws 2023, Chapter 30 and NMAC 6.12.16.8.D(2)(a) directs SFAs to permit students in kindergarten through fifth (K-5) grade **up to** 20 minutes of seat time to eat lunch. For schools that already provide **more than** 20 minutes of seat time for lunch, this requirement could stand to reduce the amount of time K-5 students have to eat.