



State of Arizona  
Department of Education

**HNS# 029-13**  
USDA SP 34-2013

MEMORANDUM

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**To:** Sponsors of the National School Lunch Program, School Breakfast Program, USDA Foods Program, and Special Milk Program

**From:** Mary Szafranski, Deputy Associate Superintendent  
Arizona Department of Education, Health & Nutrition Services

Mark Frantz, Acting Director  
Arizona Department of Education, School Nutrition Programs

*Original Signed*

**Date:** May 21, 2013

**RE:** Paid Lunch Equity: Guidance for SY 2013-14

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The interim rule, “National School Lunch Program: School Food Service Account Revenue Amendments Related to the Healthy, Hunger-Free Kids Act of 2010,” published in the Federal Register on June 17, 2011, (76 Federal Register 35301), requires school food authorities (SFAs) participating in the National School Lunch Program to ensure sufficient funds are provided to the nonprofit school food service account for lunches served to students not certified eligible for free or reduced price meals. The rule, and the statutory provision it is based on, Section 12(p) of the Richard B. Russell National School Lunch Act, 42 USC 1760(p), provide two ways for SFAs to meet this requirement: either through gradually raising the prices charged for “paid” lunches or through providing an equivalent amount of funds from non-Federal sources to the nonprofit school food service account.

In recognition of the short timeframes for implementation, the interim rule allowed significant flexibility in complying with the provision in the first year of implementation (School Year (SY) 2011-12). Many of those flexibilities were not applicable in SY 2012-13. Food and Nutrition Service (FNS) received several comments on the interim rule suggesting that those initial flexibilities be extended, making them permanent in the final rule. FNS also received feedback from SFAs over the course of this school year, specifically that the provision is challenging to implement in situations where the SFA is in strong financial health, despite having paid lunch prices below the level required by the interim rule.



In response to these comments on the interim rule, this memorandum identifies specific flexibilities SFAs may use when implementing the paid lunch equity requirement for SY 2013-14.

### Sources of Non-Federal Funds

Currently, under Program regulations at 7 CFR 210.14(e)(5)(iii), SFAs may count as a non-Federal revenue source any State or local per-lunch reimbursements specifically provided for paid lunches. Additionally, the regulations permit SFAs to count as a non-Federal source funds provided specifically for paid lunches by organizations (such as school-related or community groups), and any proportion attributable to paid lunches from direct payments made from school district funds to support lunch service.

Expanding the definition of a non-Federal source to include paid breakfasts will help SFAs meet the Paid Lunch Equity (PLE) requirement. Additionally, it will acknowledge the continuing support by State and local organizations to improve access to and participation in the breakfast program. For that reason and in response to the feedback received both on the interim rule and throughout this school year, FNS will expand the definition of allowable non-Federal funds to include support of *all paid meals*. As a result, non-Federal funds provided to an SFA to support paid breakfasts, as well as lunch, may be counted toward the regulatory revenue requirement.

**Therefore, for SY 2013-14, SFAs may count as a non-Federal source:**

- 1. Per-meal non-Federal reimbursement for any paid meal (breakfast, lunch, etc.);**
- 2. Any funds provided by organizations for any paid meal;**
- 3. Any proportion attributable to paid meals from direct payments made from school district funds to support lunch service.**

### SFAs in Strong Financial Position

The school food service account is required to be nonprofit, and current regulations (210.9(b)(2), 210.14(b)) require SFAs not to exceed a three-month operating balance in their account. This requirement is meant to ensure that SFAs are spending their funds only on school meal operations and not profiting from Federal funds.

During the implementation of the interim rule, some State agencies and SFAs have noted that requiring SFAs in strong financial positions to increase prices or contribute funds to the food service account may not further the goals of the Healthy, Hunger-Free Kids Act of 2010 (HHFKA) and the rule. FNS agrees that the goal of the paid lunch equity provision was to bring in new revenue to SFAs, to strengthen their financial standing, and financially support the improvements required by the new meal patterns. However, for some SFAs the additional revenue may not be necessary to achieve that goal.



**Therefore, for SY 2013-14 State agencies, upon request by an SFA, should exempt an SFA from the paid lunch revenue requirements if the SFA:**

- 1. Has been certified as meeting the meal pattern requirements, and;**
- 2. Can demonstrate that the required increase to paid lunch prices or revenue contributions would cause the SFA to exceed the three-month operating balance limit.**

**In reviewing the request of an SFA, the State agency should also consider whether there are other necessary or desirable uses for the funds to meet Program requirements and goals or to address deficiencies in Program operations.**

While these flexibilities are available for SY 2013-14, please know that FNS will be carefully evaluating the information and data gathered from State agencies regarding how these policies are being implemented in order to better understand their impact on school food service revenue and whether they further the goals of the HHFKA.

For questions regarding this memo, please contact your School Nutrition Programs Specialist; this information is located on the NSLP CNP Web home page.

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