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Washington Office of Superintendent of  
**PUBLIC INSTRUCTION**  
Chris Reykdal, Superintendent

k12.wa.us

July 13, 2023

- Action Required  
Due date: Varies  
 Informational

## BULLETIN NO. 045-23 CHILD NUTRITION SERVICES

TO: Educational Service District Superintendents  
School District Superintendents  
School District Business Managers  
School District Food Service Supervisors  
Administrators of Select Private Schools

FROM: Chris Reykdal, Superintendent of Public Instruction

RE: Meals for Washington Students – House Bill 1238 (2023)

CONTACT: Child Nutrition Services Program Specialists

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## PURPOSE/BACKGROUND

The Washington State Legislature passed [House Bill \(HB\) 1238 \(2023\)](#): Providing Free School Meals for All during the 2023 legislative session amending the [Revised Code of Washington \(RCW\) 28A.235](#). This bulletin summarizes the requirements of HB 1238, including impacts to operation of the U.S. Department of Agriculture's (USDA) National School Lunch Program (NSLP) and School Breakfast Program (SBP).

## MEALS FOR WASHINGTON STUDENTS – HOUSE BILL 1238

House Bill 1238 requires Local Education Agencies (LEAs) to provide meals at no cost to students enrolled at elementary schools where 40% or more of enrolled children are eligible for free or reduced-price meals. This requirement begins school year 2023–24 and is based off annual [October Building Data](#). OSPI will publish the list of qualifying schools and send notification to impacted schools to LEAs annually. The list of eligible elementary schools for SY 2023–24 is posted on the [OSPI Child Nutrition Services School Meal Programs webpage](#).

“Elementary schools” are defined as schools that serve students in kindergarten, first grade, second grade, third grade and/or fourth grade. Regardless of other grade levels served in the school, any school that serves students in any of the above grades qualifies as an “elementary school.” Once a school qualifies under HB 1238, all students—regardless of grade level—must be offered meals free of charge. For example, in a qualifying school that serves students in grades K-8, all students, at all grade levels, would need to have access to meals at no cost. HB 1238 requirements also apply to charter schools established under the [RCW 28A.710](#) and state-tribal education compact schools established under [RCW 28A.715](#).

Schools providing meals at no cost under this requirement must claim meals by eligibility category (free, reduced-price, or paid). The reduced-price copay will continue to be funded by the state through [House Bill 1342 \(2021\)](#), which eliminated the reduced-price copay for all grade levels. Under HB 1238 meals served to students in the paid category, will receive supplemental funding to provide reimbursement equal to the USDA free rate.

HB 1238 has a phase-in approach with the requirement expanding to elementary schools with 30% or more enrolled children eligible for free or reduced-price meals in school year 2024-25.

HB 1238 does *not* supersede [House Bill 1878 \(2021\)](#) which requires the operation of CEP at schools with an Identified Student Percentage (ISP) of 40% or greater. Schools eligible for CEP must continue to apply for the program as required by legislation and may not end their CEP cycle early.

## NATIONAL SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM REQUIREMENTS

LEAs providing meals free of charge under HB 1238, must continue to follow all NSLP and SBP requirements, including the following:

### Free and Reduced-Price Meal Applications

Free and reduced-price meal applications must continue to be distributed and collected to meet USDA program requirements and to maintain other state educational funding. Only schools operating CEP or Provision 2 must use the Family Income Survey.

Local education agencies must also continue to distribute *Letters to Households* and *Meal Applications* to families each school year after July 1. These materials inform families of the meal programs available to students. Free and reduced-price application information and materials have been updated to reflect schools operating under HB 1238.

### **Direct Certification**

Direct Certification is the process LEAs use to certify categorically eligible children for free or reduced-price meals without further application. Students may be directly certified for free or reduced-price meals based on participation in assistance programs, including but not limited to Basic Food and Temporary Assistance for Needy Families (TANF). LEAs must continue to perform direct certification at least monthly per state law.

### **Notification of Eligibility Determination**

Local Education Agencies must notify households of their eligibility status.

- Households with children who are approved for free or reduced-price meal benefits may be notified either verbally or in writing.
- Households with children who are denied benefits must be provided with written notification of the denial through mail or email.

Information about free and reduced-price meal application materials, including Letter to Household and Notice of Eligibility can be found on the [Free and Reduced-Price Application and Verification Information webpage](#) and in the Free and Reduced-Price Meal Application and Information Bulletin found on the [Bulletins and Memos webpage](#).

### **Paid Lunch Prices**

Schools operating under HB 1238 do not need to establish student lunch prices as meals will be offered at no cost to all students. Prices for adult meals must continue to be set in accordance with requirements outlined in the [Adult Meal Prices Reference Sheet](#).

## **IMPACTS TO OTHER PROGRAMS**

### **Learning Assistance Program (LAP): Temporary Stability Factor**

HB 1238 included temporary stability factors for school year 2023–24 through school year 2025–26 to ensure LEAs and schools do not lose important LAP funding by providing meals at no cost. LEAs may use Free and Reduced-Price Meal Eligibility Status or Low Income (FRPL) data from any of the four years preceding HB 1238 adoption for LAP purposes. Schools will also maintain LAP High-Poverty status when providing meals at no cost.

BULLETIN NO. 045-23 CNS

July 13, 2023

Page 4

Nothing prevents a school or LEA from increasing their FRPL while providing meals at no cost. Diligent meal application collection and direct certification downloads are key to increasing these percentages.

### **National Board-Certified Teaching Bonus: Temporary Stability Factor**

HB 1238 also included a temporary stability factor to ensure schools qualifying as 'High Poverty Schools' in school year 2023–24 maintain their status for school year 2024–25 and 2025–26 National Board-Certified Teacher bonuses when providing meals at no cost under HB 1238.

## **INFORMATION AND ASSISTANCE**

For questions regarding this bulletin please contact your assigned program specialist or call the OSPI TTY number at 360-664-3631.

This bulletin is also available on the [Bulletins](#) page of the OSPI website.

Tennille Jeffries-Simmons  
Chief of Staff

Leanne Eko  
Chief Nutrition Officer  
Child Nutrition Services

CR:ln

**Assurance of Civil Rights Compliance**

*The Sponsor hereby agrees that it will comply with: i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); ii. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.); iii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); iv. Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); v. Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131-12189); vi. Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000); vii. All provisions required by the implementing regulations of the Department of Agriculture (USDA) (7 CFR Part 15 et seq.); viii. Department of Justice Enforcement Guidelines (28 CFR Parts 35, 42 and 50.3); ix. Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA; and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement. x. The USDA non-discrimination statement that in accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).*

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*By accepting this assurance, the Sponsor agrees to compile data, maintain records, and submit records and reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review and copy such records, books, and accounts, access such facilities and interview such personnel as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Sponsor, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA.*

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