

OAR 581-051-0600: Breakfast After the Bell Requirement and Exemption Process

(1) As used in this section:

(a) “Breakfast” means a reimbursable breakfast provided through the federal School Breakfast Program.

(b) “Eligible student” has the meaning given that term in ORS 327.535, as amended by Or Laws 2019, ch. 122, sec. 26 (Enrolled HB 3427).

(c) “School district” means an Oregon common school district, joint school district, union high school district, education service district, or public charter school.

(2)(a) If, as of October in the second preceding school year, 70 percent or more of the students at a school site were eligible students, then a school district must make breakfast accessible at that school site after the beginning of the school day. A school district that must make breakfast accessible after the beginning of the school day under this subsection must ensure that the breakfast is:

(A) Accessible to all students after the beginning of the school day, regardless of a student’s grade or arrival time; and

(B) Provided free of charge to all students, regardless of whether a student is an eligible student.

(b) For purposes of this subsection, “arrival time” means the time of day when the student has arrived on campus for the purpose of attending classes or participating in school activities.

(3)(a) Beginning in the 2020-21 school year, school districts subject to the requirement in subsection (2) of this section must make breakfast accessible after the beginning of the school day.

(b) The department will provide school districts with technical assistance, as well as collect and share best practices, regarding the selection and implementation of breakfast after the bell programs.

(4) Notwithstanding subsection (2) of this section, a school district:

(a) May request an exemption from the requirement to make breakfast accessible after the beginning of the school day at a school site if the district can demonstrate that 70 percent or more of the eligible students regularly receive breakfast at the school site, even though the district does not make breakfast accessible at that site after the beginning of the school day.

(b) Is not required to make breakfast accessible to a student after the beginning of the school day if the student does not arrive at the school site at least 30 minutes before the start of the school site’s lunch service.

(5)(a) The department will notify school districts whether a school site is eligible for an exemption from the requirement to make breakfast accessible after the beginning of the school day.

(b) Before the department will consider a school site as exempt from the requirement in subsection (2) of this section, the school district must first notify the department that it is claiming an exemption on behalf of the eligible school site by using the notification form published by the department.

(6)(a) Upon receiving notice from a school district that it is claiming an exemption from the requirement in subsection (2) of this section on behalf of a school site, the department will confirm whether the school site is eligible for an exemption. If a school district claimed the exemption on behalf of a school site that is not eligible to receive one, then the department will notify the district in writing and the school site must comply with the requirement to make breakfast accessible after the beginning of the school day.

(b) Eligible school sites that receive an exemption from the requirement in subsection (2) of this section are exempt from complying with the requirement during the applicable school year.

(c) School districts must notify the department in each year they are claiming an exemption on behalf of an eligible school.

(d) A school district may not request an exemption on behalf of an eligible school site that is not either within the district's boundaries, or subject to the district's oversight or control.

OAR 581-017-0605: Breakfast After the Bell Equipment Grant

(1) As used in this section:

(a) "Breakfast after the Bell" means a reimbursable breakfast that is provided through the federal School Breakfast Program and offered by a school district to students after the beginning of the school day. The term includes, but is not limited to, breakfasts served to students for consumption during homeroom or first period, easy-to-eat breakfast foods made available for students to take and eat sometime during the morning, or a second breakfast service available to those students who either didn't arrive at school in time for the first breakfast service or weren't hungry earlier in the day.

(b) "Eligible student" has the meaning given that term in ORS 327.535, as amended by Or Laws 2019, ch. 122, sec. 28 (Enrolled HB 3427).

(c)(A) "Equipment" means tangible personal property having a useful life of more than one year that is necessary and required to provide breakfast after the beginning of the school day. The term includes, but is not limited to, rolling coolers, insulated food carriers, ovens, laptops, kitchen utensils, or portable kiosks.

(B) "Equipment" does not include meal management software systems or cleaning products.

(c) "School district" means an Oregon common school district, joint school district, union high school district, education service district, or public charter school.

(2) The purpose of the Breakfast After the Bell Equipment Grant is to assist school districts with paying the costs they incur purchasing or upgrading necessary equipment required to provide breakfast after the beginning of the school day.

(3) A school district may apply for a Breakfast After the Bell Equipment Grant on behalf of one or more of its school sites participating in the federal School Breakfast Program. To be considered eligible for a grant, the school site must be subject to the requirement in ORS 327.535(8), as amended by Or Laws 2019, ch. 122, sec. 28 (Enrolled HB 3427), to make breakfast available after the beginning of the school day. Eligible school sites that receive a Breakfast After the Bell Equipment Grant may use it to purchase new equipment, or repair, renovate, or upgrade equipment they already own, that is necessary and required to serve students breakfast after the bell.

(4)(a) The Oregon Department of Education shall establish a request for proposals solicitation and approval process to be conducted each biennium in which Breakfast After the Bell Equipment Grant funds are available.

(b) The department shall notify school districts of the proposal process and the dates when proposals are due, and make available necessary guidelines and application forms.

(c) School districts must submit their grant proposals on the most current form prescribed by the department. The department shall publish the current requests for proposals solicitation forms on the department's website.

(d) If a school district is unable to provide the information requested in the request for proposals solicitation, then it must provide an explanation why the information cannot be provided. Grant applicants may submit additional information that will aid the department in evaluating their grant proposals.

(5) To be considered by the Oregon Department of Education, the grant proposal submitted by a school district must include the following information:

(a) The name of the school district applying for a Breakfast After the Bell Equipment Grant;

(b) The name of the school site that will receive the equipment or services if the district receives a grant;

(c) The name of the person who will serve as the district's primary contact regarding the grant proposal and that person's contact information, including the primary contact's email address and telephone number;

(d) A description of the equipment or services the district will acquire for a school site if it receives a grant;

(e) An explanation of how the equipment or services the district proposes to acquire with grant funds for a school site are necessary and required to provide students breakfast after the beginning of the school day;

(f) An estimate of the costs of the equipment or services the district proposes to acquire with grant funds; and

(h) An analysis of the equipment or services the district proposes to acquire with grant funds using the department's Equity Lens, OAR 581-017-0010.

(6)(a) The Oregon Department of Education will review school districts' grant proposals for completeness and how well they address the evaluation criteria adopted by the department. The department shall give preference to grant proposals that address how the district will:

(A) Involve students, parents, teachers, and staff in assessing the necessary equipment or services required to offer breakfast after the bell at a school site;

(B) Work with students, parents, teachers, and staff to expand students' participation in breakfast, such as by involving students in developing breakfast menus or performing taste tests with students; and

(C) Work with students, parents, teachers, and staff to identify and remove barriers to students' participation in breakfast, as well as promote students' consumption of breakfast.

(b) The department may give preference to grant proposals submitted on behalf of school sites in underserved areas, school sites with limited access to other resources, school sites with very old food service equipment, and school sites that serve a high percentage of students who qualify for free or reduced price school meals under the federal National School Lunch Program.

(7) The Oregon Department of Education may request additional information, or impose additional criteria, in the applicable request for proposals and any Breakfast After the Bell Equipment Grant guidance published by the department.

(8)(a) The Oregon Department of Education shall allocate funds for Breakfast After the Bell Equipment Grants.

(b) Breakfast After the Bell Equipment Grants will be awarded to those school districts whose grant proposals are judged by the department as best addressing the applicable evaluation criteria.

(c) The department will notify the school districts selected for a Breakfast After the Bell Equipment Grant by either mail or email. Within two weeks of receiving notice, the district must notify the department whether it accepts the award.

(d) The department will award the first Breakfast After the Bell Equipment Grants for the biennium beginning on July 1, 2019, and ending on June 30, 2021. If funding is available, additional grants may be awarded in subsequent biennia.

(e) The amount of each Breakfast After the Bell Equipment Grant awarded by the department in any biennia may not exceed \$5,000 per school site.

(f) Grant funds awarded for use in one biennium may not be carried over to the following biennium, and will revert to the department at the end of the biennium, unless otherwise determined by the department.

(g) Grant recipients must deposit the grant funds they receive in a separate account, or assign them a separate account or index number. Grant funds may only be used for the purpose of purchasing new equipment, or repairing, renovating, or upgrading equipment they already own, which is necessary and required to provide students breakfast after the beginning of the school day.

(9) Grant recipients:

(a) Must comply with all applicable federal, state, and local procurement laws and procedures when purchasing equipment with grant dollars.

(b) May not charge indirect costs to their grant award.

(c) May only use their grant awards to purchase the equipment or services described in their applications.

(10)(a) If a grant recipient does not comply with this section, or the terms included in the request for proposals solicitation published by the Oregon Department of Education, then the department may take appropriate action, including but not limited to wholly or partially terminating or suspending the recipient's grant award, disallowing some or all unallowable or noncompliant costs, or recovering grant funds spent on unallowable or noncompliant costs.

(b) If the department takes action to address a grant recipient's noncompliance with this section, or the terms included in the department's request for proposals solicitation, then the grant recipient may appeal the department's decision as provided in OAR 581-001-0005.

(11)(a) The Oregon Department of Education shall publish performance measures for recipients of a Breakfast After the Bell Equipment Grant in the request for proposals solicitation forms and any related guidance documents produced by the department.

(b) The department shall provide grant recipients with a template for a final grant report. To receive the final disbursement of grant funds, grant recipients must submit a completed final grant report to the department.

OAR 518-051-0610: Community Eligibility Provision Incentive Reimbursement Program

(1) As used in this section:

(a) "Breakfast" means a reimbursable breakfast that is provided through the federal School Breakfast Program.

(b) "Community Eligibility Provision" refers to the alternative reimbursement option administered by the United States Department of Agriculture for schools and school districts in high-poverty areas through

which participating schools or school districts agree to provide breakfasts and lunches at no charge to all students in exchange for receiving federal meal reimbursements based on the schools' or districts' identified student percentage.

(c) "Eligible school or district" means a school, a group of schools, or a school district that:

(A) Has an identified student percentage of at least 40 percent, as of April 1 of the school year prior to participating in the Community Eligibility Provision;

(B) Participates in both the federal National School Lunch and School Breakfast Programs; and

(C) Complies with the regulations and procedures established by the United States Department of Agriculture for the administration of the Community Eligibility Provision.

(d) "Identified students" has the meaning given that term in 7 CFR 245.9(f).

(e) "Identified student percentage" has the meaning given that term in 7 CFR 245.9(f).

(h) "Identified Student Percentage Reimbursement goal" is the percentage of all breakfasts and lunches an eligible school or district served to its students during a school year that the Oregon Department of Education has determined should be reimbursed at an amount equal to either the applicable federal free meal reimbursement rate, or a supplemental meal reimbursement rate calculated by the department for the Community Eligibility Provision Incentive Reimbursement Program.

(i) "Lunch" means a reimbursable lunch that is provided through the federal National School Lunch Program.

(j) "School district" means an Oregon common school district, joint school district, union high school district, education service district, or public charter school.

(k) "School year" means the twelve-month period beginning on July 1 and ending on June 30.

(2) The purpose of the Community Eligibility Provision Incentive Reimbursement Program is to encourage participation in the federal Community Eligibility Provision, and maximize the number of schools participating in the provision, by making the provision financially viable for more eligible schools and districts. The program achieves its purpose by supplementing the federal reimbursements participating schools and school districts receive for the breakfasts and lunches they serve at no cost to their students with an additional state-funded reimbursement.

(3)(a) The Oregon Department of Education will make the first reimbursements under the Community Eligibility Provision Incentive Reimbursement Program for breakfasts and lunches served to students during the 2020-21 school year.

(b) Beginning in the 2020-21 school year, the department will publish the identified student percentage reimbursement goal for the current school year. Depending on the number of claims received, the amount of state funds allocated for reimbursements, the amount of state funds available for paying

claims, changes in student enrollment, or other related factors, the department may revise the identified student percentage reimbursement goal for the current school year. The department will notify eligible schools and districts eight weeks in advance of any changes in the current school year's identified student percentage reimbursement goal.

(4) The Oregon Department of Education will issue periodic reports about the Community Eligibility Provision Incentive Reimbursement Program. The reports will include, but are not limited to, how much remains of the funds allocated for the program, the number of schools participating, and the number of students served.

(5)(a) The Oregon Department of Education will notify each school or district that is eligible for participation in the Community Eligibility Provision Incentive Reimbursement Program of its eligibility and that it will receive a supplemental, state-funded meal reimbursement that is in addition to any federal meal reimbursement received through the Community Eligibility Provision. The program is not competitive; participation in the program is open to all eligible schools and districts.

(b) An eligible school or district must notify the Oregon Department of Education of its intent to participate in the Community Eligibility Provision Incentive Reimbursement Program in the form and manner prescribed by the department.

(6)(a) The Oregon Department of Education will publish a Community Eligibility Provision Incentive Reimbursement Program agreement form. Eligible schools or districts must submit a signed agreement form to the department before they can receive supplemental, state-funded meal reimbursements through the program.

(b) The department will base its program agreement on an eligible school or district's existing agreement with the department to operate one or more federal school nutrition programs. The program agreements will include, but are not limited to, a requirement that the eligible school or district comply with applicable state and federal requirements for the administration of the federal school nutrition programs and the terms of its existing agreement to operate one or more federal school nutrition programs.

(6)(a) The Oregon Department of Education will develop an annual supplemental meal reimbursement rate for the Community Eligibility Provision Incentive Reimbursement Program. The supplemental meal reimbursement rate will be based on the average of the applicable standard per-meal reimbursement rates and the higher severe need per-meal reimbursement rates published by the United States Department of Agriculture for the National School Lunch and School Breakfast Programs.

(b) Notwithstanding paragraph (a) of this subsection, the department may calculate an alternative supplemental meal reimbursement at a lower rate for eligible schools and districts that have an identified student percentage that is equal to or greater than 30 percent, but less than 40 percent, as of April 1 of the fourth year of the eligible school or district's four-year community eligibility cycle, and are continuing on the Community Eligibility Provision for a fifth year.

(7)(a) Eligible schools and districts participating in the Community Eligibility Provision Incentive Reimbursement Program must submit a monthly claim for reimbursement in the form and manner prescribed by the Oregon Department of Education. The department will process supplemental, state-funded meal reimbursements paid through the program according to the United States Department of Agriculture's rules and procedures for meal reimbursement claim submission and processing for schools and districts participating in the National School Lunch and School Breakfast Programs.

(b) If an eligible school or district's monthly claim for reimbursement is adjusted after the eligible school or district received federal and state reimbursements for the meals it served during that month, the department may take steps to avoid an overpayment or underpayment, including but not limited to reducing or increasing the amount of the following month's supplemental meal reimbursement by the amount of the overpayment or underpayment.

(c) An eligible school or district that does not submit a monthly school nutrition program reimbursement claim may not receive supplemental state funds through the program.

(8) Eligible schools or districts that receive supplemental, state-funded meal reimbursements through the Community Eligibility Provision Incentive Reimbursement Program must deposit those funds in their nonprofit school food service accounts.

(9)(a) The Oregon Department of Education shall publish performance measures and guidance documents for participants in the Community Eligibility Provision Incentive Reimbursement Program.

(b) Each year, an eligible school or school district receiving supplemental, state-funded meal reimbursements through the program must submit a report to the department in the manner and form prescribed by the department. A recipient school or district's report will include an assessment of the recipient's school nutrition program using the Oregon Equity Lens, OAR 581-017-0010, and may include, but is not limited to information addressing how the recipient is using the state dollars it receives to improve:

(A) Students' access to school meals;

(B) Students' participation in its school nutrition program;

(C) Community involvement in its school nutrition program; and

(D) The quality of student meals it serves.

OAR 581-051-0615: Expanded Income Eligibility Group Reimbursement Program

(1) As used in this section:

(a) "Areas in which poor economic conditions exist" has the meaning given that term in 7 CFR 225.2.

(b) “Breakfast” means a reimbursable breakfast that is provided through the federal School Breakfast Program.

(c) “Community Eligibility Provision” refers to the alternative reimbursement option administered by the United States Department of Agriculture for schools and school districts in high-poverty areas through which participating schools or school districts agree to provide breakfasts and lunches at no charge to all students in exchange for receiving federal meal reimbursements based on the schools’ or districts’ identified student percentage.

(d) “Eligible school or district” means a school, a group of schools, or a school district that is not participating in the Community Eligibility Provision.

(e) “Eligible student” means a student who:

(A) Is from a household with an income that is greater than 185 percent, but does not exceed 300 percent, of the applicable federal poverty guidelines; or

(B) Resides in an area in which poor economic conditions exist.

(f) “Federal poverty guidelines” means the federal poverty guidelines that are issued annually by the United States Department of Health and Human Services and used to determine financial eligibility for various federal programs, including but not limited to free and reduced price breakfasts and lunches.

(g) “Income Eligibility Guidelines” means the Income Eligibility Guidelines for free and reduced price meals for the National School Lunch Program, School Breakfast Program, and other federal school and community nutrition programs. The guidelines are published annually by the United States Department of Agriculture and used to determine a student’s eligibility for free and reduced price meals. The guidelines are based on the annual federal poverty guidelines issued by the United States Department of Health and Human Services.

(h) “Lunch” means a reimbursable lunch that is provided through the federal National School Lunch Program.

(i) “School district” means an Oregon common school district, joint school district, union high school district, education service district, or public charter school.

(j) “School year” means the twelve-month period beginning on July 1 and ending on June 30.

(2) The purpose of the Expanded Income Eligibility Group Reimbursement Program is increasing students’ access to and participation in school nutrition programs, such as the National School Lunch and School Breakfast Programs. The program achieves its purpose by reimbursing eligible schools or districts participating in the program for each breakfast and lunch they serve at no charge to an eligible student.

(3)(a) An eligible school or district must notify the Oregon Department of Education of its intent to participate in the Expanded Income Eligibility Group Reimbursement Program in the form and manner

prescribed by the department before the eligible school or district will begin providing breakfasts and lunches to eligible students at no charge.

(b) The department will publish an agreement form for the program. Eligible schools or districts must submit a signed agreement form to the department before they can receive supplemental, state-funded meal reimbursements through the program.

(c) The department will base its agreement form on an eligible school or district's existing agreement with the department to operate one or more federal school nutrition programs. The program agreements will include, but are not limited to, a requirement that the eligible school or district comply with applicable state and federal requirements for the administration of the federal school nutrition programs.

(4)(a) The Oregon Department of Education will publish a paid breakfast rate for the upcoming school year each school year.

(b) The department will develop an annual supplemental meal reimbursement rate for the Expanded Income Eligibility Group Reimbursement Program. The supplemental meal reimbursement rate will be based on the average of the applicable standard per-meal reimbursement rates and the higher severe need per-meal reimbursement rates published by the United States Department of Agriculture for the National School Lunch and School Breakfast Programs.

(5) As a condition of participating in the Expanded Income Eligibility Group Reimbursement Program, eligible schools and districts must:

(a) Adopt the applicable paid breakfast rate published by the department as the minimum price they will charge students from households with incomes that exceed 300 percent of the federal poverty guidelines for the breakfasts they purchase.

(b) Adopt the applicable school year's weighted average paid lunch requirement, as shown on the eligible school or district's Paid Lunch Equity Tool, as the minimum price they will charge students from households with incomes that exceed 300 percent of the federal poverty guidelines for the lunches they purchase.

(c) Serve breakfast and lunch to eligible students at no charge.

(7) The Oregon Department of Education will:

(a) Publish a confidential household income application for the Expanded Income Eligibility Group Reimbursement Program.

(b) Assist eligible schools or districts in determining whether they are located, or serving students residing, in areas in which poor economic conditions exist.

(c) Develop and publish a formula for determining how many students residing, or attending a school located, in an area in which poor economic conditions exist are eligible students using household income data collected by the United States Census Bureau through its American Community Survey.

(8)(a) To determine whether individual students are eligible to receive breakfast and lunch at no charge through the Expanded Income Eligibility Group Reimbursement Program, an eligible school or district participating in the program will have households complete and return the department's confidential household income application.

(b) Students will qualify as eligible students and may receive breakfast and lunch at no charge through the program if the confidential household income application submitted on behalf of a student shows that the student's household has an income that is greater than 185 percent, but does not exceed 300 percent, of the applicable federal poverty guidelines.

(c) Eligible schools or districts must notify households if their students qualify as eligible students and may receive breakfast and lunch at no charge through the program by no later than ten business days after receiving the household's confidential household income application.

(d) Eligible schools or districts must verify the eligibility of students who qualify to receive breakfast and lunch at no charge through the program using the verification procedures established in 7 CFR 245.6a.

(9)(a) Notwithstanding subsection (8) of this section, eligible schools or districts that can demonstrate that they are located, or serving students residing, in areas in which poor economic conditions exist may claim a percentage of all meals served to students from households with incomes which exceed 185 percent of the federal poverty guidelines as having been served to eligible students.

(b) The portion of all meals served to students from households with incomes which exceed 185 percent of the federal poverty guidelines that may be claimed as having been served to eligible students will be determined by applying the department's formula.

(c) Eligible schools or districts that demonstrated they were located, or serving students residing, in areas in which poor economic conditions exist must, at least once every five years, determine whether they are still located, or serving students residing in, areas in which poor economic conditions exist.

(10)(a) The Oregon Department of Education will make the first reimbursements under the Expanded Income Eligibility Group Reimbursement Program for breakfasts and lunches served to eligible students at no charge during the 2020-21 school year.

(b) The supplemental, state-funded meal reimbursements provided through the program may not exceed the difference between the applicable rate paid by students for their breakfasts and lunches and any amounts otherwise reimbursed or paid by state, federal, or other sources.

(11)(a) Eligible schools and districts participating in the Expanded Income Eligibility Group Reimbursement Program must submit a monthly claim for reimbursement in the form and manner prescribed by the Oregon Department of Education. The department will process supplemental, state-funded meal reimbursements paid through the program according to the United States Department of Agriculture's rules and procedures for meal reimbursement claim submission and processing for schools and districts participating in the National School Lunch and School Breakfast Programs.

(b) If an eligible school or district's monthly claim for reimbursement is adjusted upwards or downwards after the school or district received federal or state reimbursements for the meals served during that month, the department may take steps to avoid an overpayment or underpayment, including but not limited to reducing or increasing the amount of the following month's supplemental meal reimbursement by the amount of the overpayment or underpayment.

(c) An eligible school or district that does not submit a monthly school nutrition program federal reimbursement claim may not receive supplemental state funds through the program.

(12) Eligible schools or districts that receive state-funded, supplemental meal reimbursements through the Expanded Income Eligibility Group Reimbursement Program must deposit those funds in their nonprofit school food service accounts.

(13)(a) The Oregon Department of Education will publish performance measures and guidance documents for participants in the Expanded Income Group Eligibility Reimbursement Program.

(b) Each year, an eligible school or district receiving supplemental, state-funded meal reimbursements through the program must submit a report to the department in the form and manner prescribed by the department. A recipient school or district's report will include an assessment of the recipient's school nutrition program using the Oregon Equity Lens, OAR 581-017-0010, and may include, but is not limited to information addressing how the recipient is using the state dollars it receives to improve:

(A) Students' access to school meals;

(B) Students' participation in its school nutrition program;

(C) Community involvement in its school nutrition program; and

(D) The quality of student meals it serves.

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