

IC 20-26-9

Chapter 9. School Breakfast and Lunch Programs

IC 20-26-9-1

"Participating school corporation"

Sec. 1. As used in this chapter, "participating school corporation" refers to a school corporation that includes at least one (1) qualifying school building.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-2

"Qualifying school building"

Sec. 2. (a) This subsection applies before July 1, 2007. As used in this chapter, "qualifying school building" refers to a public school building in which:

- (1) at least twenty-five percent (25%) of the students who were enrolled at that school building during the prior school year qualified for free or reduced price lunches under guidelines established under 42 U.S.C. 1758(b); and
- (2) lunches are served to students.

(b) This subsection applies after June 30, 2007. As used in this chapter, "qualifying school building" refers to a public school building in which:

- (1) at least fifteen percent (15%) of the students who were enrolled at that school building during the prior school year qualified for free or reduced price lunches under guidelines established under 42 U.S.C. 1758(b); and
- (2) lunches are served to students.

As added by P.L.1-2005, SEC.10. Amended by P.L.54-2006, SEC.1.

IC 20-26-9-3

"School"

Sec. 3. As used in this chapter, "school" means the following:

- (1) An Indiana public school in which any grade from kindergarten through grade 12 is taught.
- (2) A nonpublic school in which any grade from kindergarten through grade 12 is taught that is not operated for profit in whole or in part.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-4

"School board"

Sec. 4. As used in this chapter, "school board" means:

- (1) when applicable to a public school of Indiana, the board of school trustees, board of school commissioners, school board of incorporated towns and cities, and township school trustees; or
- (2) when applicable to a school other than a public school, a person or agency in active charge and management of the school.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-5**"School breakfast program"**

Sec. 5. As used in this chapter, "school breakfast program" refers to a program under which breakfast is served at a qualifying school building on a nonprofit basis to students enrolled at the qualifying school building.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-6**"School lunch program"**

Sec. 6. As used in this chapter, "school lunch program" means a program under which lunches are served by a school in Indiana on a nonprofit basis to children in attendance, including any program under which a school receives assistance out of funds appropriated by the Congress of the United States.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-7**Authority of state superintendent to accept and disburse federal aid for school lunch programs**

Sec. 7. (a) The state superintendent may accept and direct the disbursement of funds appropriated by any act of the United States Congress and apportioned to the state for use in connection with school lunch programs.

(b) The state superintendent shall deposit all funds received from the federal government with the treasurer of state in a special account or accounts to facilitate the administration of the program. The treasurer of state shall make disbursements from the account or accounts upon direction of the state superintendent.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-8**Establishment and operation of school lunch programs**

Sec. 8. (a) The state superintendent may enter into agreements with a school board or with any other agency or person, prescribe regulations, employ personnel, and take any action that the state superintendent may consider necessary to provide for the establishment, maintenance, operation, and expansion of a school lunch program and to direct the disbursement of federal and state funds under any federal or state law.

(b) The state superintendent may give technical advice and assistance to a school corporation in connection with the establishment and operation of a school lunch program and may assist in training personnel engaged in the operation of the program. The state superintendent and any school corporation or sponsoring agency may accept any gift for use in connection with a school lunch program.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-9

Sponsoring agencies for school lunch program; appointment

Sec. 9. A governing body may:

- (1) operate or, by the appointment of a sponsoring agency, provide for the operation of school lunch programs in schools under the governing body's jurisdiction;
- (2) contract with respect to food, services, supplies, equipment, and facilities for the operation of the programs; and
- (3) use funds disbursed under this chapter and gifts and other funds received from the sale of school lunches under the programs.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-10

Accounts and records; inspection, audits, and administrative reviews

Sec. 10. (a) The state superintendent shall prescribe rules for keeping accounts and records and making reports by or under the supervision of a governing body.

(b) The accounts and records shall:

- (1) be available for inspection and audit at all times by authorized officials; and
- (2) be preserved for at least five (5) years, as the state superintendent may prescribe.

(c) The state superintendent shall conduct or cause to be conducted any audits, inspections, and administrative reviews of completed applications, acts, records, and operations of a school lunch program necessary to do the following:

- (1) Determine whether agreements with the governing body and rules under this chapter are being complied with.
- (2) Ensure that a school lunch program is effectively administered.
- (3) Ensure that participants meet all requirements to participate in the school lunch program.

As added by P.L.1-2005, SEC.10. Amended by P.L.197-2013, SEC.15.

IC 20-26-9-11

Studies to improve school lunch programs and promote nutritional education

Sec. 11. The state superintendent may, to the extent that funds are available and in cooperation with other appropriate agencies and organizations, do the following:

- (1) Conduct studies of methods of improving and expending school lunch programs and promoting nutritional education in the schools.
- (2) Conduct appraisals of the nutritive benefits of school lunch programs.
- (3) Report the findings and recommendations periodically to the governor.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-12

Authority to operate school kitchens and lunchrooms; appropriations; state aid contingent on federal aid

Sec. 12. (a) School cities, school townships, school towns, and joint districts may:

- (1) establish, equip, operate, and maintain school kitchens and school lunchrooms for the improvement of the health of students and for the advancement of the educational work of their respective schools;
- (2) employ all necessary directors, assistants, and agents; and
- (3) appropriate funds for the school lunch program.

Participation in a school lunch program under this chapter is discretionary with the governing board of a school corporation.

(b) If federal funds are not available to operate a school lunch program:

- (1) the state may not participate in a school lunch program; and
- (2) money appropriated by the state for that purpose and not expended shall immediately revert to the state general fund.

(c) Failure on the part of the state to participate in the school lunch program does not invalidate any appropriation made or school lunch program carried on by a school corporation by means of gifts or money appropriated from state tuition support distributions received by the school corporation.

As added by P.L.1-2005, SEC.10. Amended by P.L.146-2008, SEC.468.

IC 20-26-9-13

Implementation of school breakfast program

Sec. 13. The governing body of a participating school corporation shall implement or contract for the implementation of a school breakfast program at each qualifying school building within the school corporation's boundaries.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-14

Compliance with national school breakfast program participation requirements

Sec. 14. A governing body shall implement the governing body's breakfast program in compliance with the requirements for participation in the national school breakfast program under 42 U.S.C. 1773 et seq.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-15

Assistance of department

Sec. 15. The department shall assist each participating school corporation in implementing the school's breakfast program and in making all appropriate applications to the federal government for available financial assistance on behalf of the participating school corporation.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-16

Department to monitor programs and maintain records

Sec. 16. The department shall monitor the school breakfast programs required under this chapter and maintain complete and accurate records of the programs.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-17

Department to establish guidelines

Sec. 17. (a) The department shall establish guidelines to implement this chapter.

(b) The state board may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-2005, SEC.10.

IC 20-26-9-18

School health advisory councils

Sec. 18. (a) Before July 1, 2007, each school board shall establish a coordinated school health advisory council (referred to as the "advisory council" in this section). The advisory council may review the corporation's wellness policies on a yearly basis and suggest to the school board for approval changes to the policies that comply with the requirements of federal Public Law 108-265 and IC 5-22-15-24(c) before July 1 of each year. The advisory council must hold at least one (1) hearing at which public testimony about the local wellness policy being developed is allowed.

(b) The school board shall appoint the members of the advisory council, which must include the following:

- (1) Parents.
- (2) Food service directors and staff.
- (3) Students.
- (4) Nutritionists or certified dietitians.
- (5) Health care professionals.
- (6) School board members.
- (7) A school administrator.
- (8) Representatives of interested community organizations.

(c) The school board shall adopt a school district policy on child nutrition and physical activity that takes into consideration recommendations made by the advisory council.

(d) The department shall, in consultation with the state department of health, provide technical assistance to the advisory councils, including providing information on health, nutrition, and physical activity, through educational materials and professional development opportunities. The department shall provide the information given to an advisory council under this subsection to a school or parent upon request.

As added by P.L.54-2006, SEC.2.

IC 20-26-9-19

Food and beverage items sold to students; nutritional values

Sec. 19. (a) This section does not apply to a food or beverage item that is:

- (1) part of a school lunch program or school breakfast program;
- (2) sold in an area that is not accessible to students;
- (3) sold after normal school hours; or
- (4) sold or distributed as part of a fundraiser conducted by students, teachers, school groups, or parent groups, if the food or beverage is not intended for student consumption during the school day.

However, this section applies to a food or beverage item that is sold in the a la carte line of a school cafeteria and is not part of the federal school lunch program or federal school breakfast program.

(b) A vending machine at an elementary school that dispenses food or beverage items may not be accessible to students.

(c) At least fifty percent (50%) of the food items available for sale at a school or on school grounds must qualify as better choice foods and at least fifty percent (50%) of the beverage items available for sale at a school or on school grounds must qualify as better choice beverages. Food and beverage items are subject to the following for purposes of this subsection:

- (1) The following do not qualify as better choice beverages:
 - (A) Soft drinks, punch, iced tea, and coffee.
 - (B) Fruit or vegetable based drinks that contain less than fifty percent (50%) real fruit or vegetable juice or that contain additional caloric sweeteners.
 - (C) Except for low fat and fat free chocolate milk, drinks that contain caffeine.
- (2) The following qualify as better choice beverages:
 - (A) Fruit or vegetable based drinks that:
 - (i) contain at least fifty percent (50%) real fruit or vegetable juice; and
 - (ii) do not contain additional caloric sweeteners.
 - (B) Water and seltzer water that do not contain additional caloric sweeteners.
 - (C) Low fat and fat free milk, including chocolate milk, soy milk, rice milk, and other similar dairy and nondairy calcium fortified milks.
 - (D) Isotonic beverages.
- (3) Food items that meet all the following standards are considered better choice foods:
 - (A) Not more than thirty percent (30%) of their total calories are from fat.
 - (B) Not more than ten percent (10%) of their total calories are from saturated and trans fat.
 - (C) Not more than thirty-five percent (35%) of their weight is from sugars that do not occur naturally in fruits, vegetables, or dairy products.

(d) A food item available for sale at a school or on school grounds

may not exceed the following portion limits if the food item contains more than two hundred ten (210) calories:

(1) In the case of potato chips, crackers, popcorn, cereal, trail mixes, nuts, seeds, dried fruit, and jerky, one and seventy-five hundredths (1.75) ounces.

(2) In the case of cookies and cereal bars, two (2) ounces.

(3) In the case of bakery items, including pastries, muffins, and donuts, three (3) ounces.

(4) In the case of frozen desserts, including ice cream, three (3) fluid ounces.

(5) In the case of nonfrozen yogurt, eight (8) ounces.

(6) In the case of entree items and side dish items, including french fries and onion rings, the food item available for sale may not exceed the portion of the same entree item or side dish item that is served as part of the school lunch program or school breakfast program.

(e) A beverage item available for sale at a school or on school grounds may not exceed twenty (20) ounces.

As added by P.L.54-2006, SEC.3.