

## CHAPTER 104

**AN ACT** concerning the provision of free school meals to students from working class, middle-income families, supplementing Title 18A of the New Jersey Statutes, and amending and repealing various parts of the statutory law.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

### C.18A:33-3.2 Definitions.

1. As used in this chapter:

“Categorically eligible” means that a student is homeless, is a migrant child, is a runaway child, is a foster child, or is a Head Start child, as defined in 7 C.F.R. Part 245, or is receiving assistance under the Supplemental Nutrition Assistance Program (SNAP), the Temporary Assistance for Needy Families Program (TANF), the Food Distribution Program on Indian Reservations (FDPIR), or, to the extent that the United States Department of Agriculture authorizes the matching of Medicaid data to identify children who are eligible for free school meals, is a participant in the Medicaid program, and which student, by virtue of such status, is automatically eligible to be certified to receive free school meals under the National School Lunch Program or the federal School Breakfast Program, without first submitting an application or being subject to the federal income verification requirements established by 7 C.F.R. Part 245.

“Community Eligibility Provision” means a type of special assistance alternative, identified at 7 C.F.R. Part 245, pursuant to which the United States Department of Agriculture provides reimbursement for free school meals that are provided by eligible, high-poverty local educational agencies and schools that participate in both the National School Lunch Program and the federal School Breakfast Program.

“Eligible student” means a student who is either categorically eligible or income-eligible for one or more free or reduced price school meals.

“Emergency meals distribution program” means the program, established under section 1 of P.L.2020, c.6 (C.18A:33-27.2), pursuant to which a school district is required to provide school meals to students, through designated distribution sites, during any period in which the schools in the district are subject to a public health-related closure due to the COVID-19 pandemic.

“Federal School Breakfast Program” means the federal reimbursement program, established under the “Child Nutrition Act of 1966,” 42 U.S.C. s.1771 et seq., pursuant to which the United States Department of Agriculture is authorized to provide grants-in-aid and other assistance to the States, as may be necessary to help finance the establishment, maintenance, operation, and expansion of school breakfast programs and facilitate the provision of free and reduced price breakfasts to eligible students.

“Federally eligible for free or reduced price meals” means that a student is categorically eligible for free lunch under the National School Lunch Program or for free breakfast under the federal School Breakfast Program, or that the student satisfies federal income eligibility requirements, adopted by the United States Department of Agriculture pursuant to 7 C.F.R. Part 245, as is necessary to federally qualify for and receive free or reduced price lunch under the National School Lunch Program or free or reduced price breakfast under the federal School Breakfast Program.

“Federally ineligible for free or reduced price meals” means that a student is not categorically eligible for, and fails to satisfy federal income eligibility requirements, adopted by the United States Department of Agriculture pursuant to 7 C.F.R. Part 245, as is necessary for the student to federally qualify for and receive free or reduced price lunch under the

National School Lunch Program or free or reduced price breakfast under the federal School Breakfast Program.

“Income-eligible” means that a student either satisfies federal income eligibility requirements, adopted by the United States Department of Agriculture pursuant to 7 C.F.R. Part 245, or satisfies State-level income eligibility requirements, set forth in subsection a. of section 1 of P.L.1974, c.53 (C.18A:33-4) or subsection a. of section 12 of P.L.2022, c.104 (C.18A:33-14a), as is necessary for the student to qualify for and receive free or reduced price lunch under the National School Lunch Program or free or reduced price breakfast under the federal School Breakfast Program.

“Low-income family” means a family with an annual household income amounting to not more than 185 percent of the federal poverty level.

“Middle-income family” means a family with an annual household income amounting to not less than 186 percent, and not more than 199 percent, of the federal poverty level.

“National School Lunch Program” means the federal reimbursement program established under the “Richard B. Russell National School Lunch Act,” 42 U.S.C. s.1751 et seq., pursuant to which the United States Department of Agriculture is authorized to provide grants-in-aid and other assistance to the States, as may be necessary to help finance the establishment, maintenance, operation, and expansion of school lunch programs and facilitate the provision of free and reduced price lunches to eligible students.

“School breakfast program” means a program that is established and operated by a public or nonpublic school, in accordance with the requirements of the federal School Breakfast Program and, in the case of a public school, in accordance with a plan adopted pursuant to section 2 of P.L.2003, c.4 (C.18A:33-10) or section 6 of P.L.2022, c.104 (C.18A:33-10.1), and pursuant to which the school offers daily breakfasts to all enrolled students.

“School lunch program” means a program that is established and operated by a school district, in accordance with the requirements of the National School Lunch Program and the provisions of section 1 of P.L.1974, c.53 (C.18A:33-4), and pursuant to which the district offers daily lunches to all students enrolled in the district.

“Special assistance alternative” means a special nutrition assistance alternative federal reimbursement method that is authorized by the United States Department of Agriculture, pursuant to 42 U.S.C. s.1759a and 7 C.F.R. Part 245, for eligible schools that serve free meals to all enrolled students. “Special assistance alternative” includes Provision 2, Provision 3, and the Community Eligibility Provision, as described in 7 C.F.R. Part 245, as well as any other similar alternative reimbursement method that is authorized by the United States Department of Agriculture, now or in the future, for schools that serve free meals to all enrolled students.

“Student” means a child 18 years of age or younger who is enrolled at a school in the State.

“Subsidized student” means a categorically eligible student or income-eligible student who, as provided by subsection a. of section 1 of P.L.1974, c.53 (C.18A:33-4) and subsection a. of section 12 of P.L.2022, c.104 (C.18A:33-14a), is not required to pay for meals that are served to the student under the National School Lunch Program or the federal School Breakfast Program.

“Summer Food Service Program” means the federal reimbursement program, established under 42 U.S.C. s.1761 and 7 C.F.R. Part 225, pursuant to which the United States Department of Agriculture is authorized to provide grants-in-aid and other assistance to the States, as may be necessary to help schools, local government agencies, nonprofit organizations, colleges and universities, and summer camps finance the administrative and operational costs of providing meals to children, in low-income areas, during the summer months and other planned periods of school closure.

“Summer meals program” means the Summer Food Service Program, the Seamless Summer Option authorized by 42 U.S.C. s.1761, or any other similar State or federal program that is designed to ensure that children have access to nutritious meals during the summer months and other planned periods of school closure.

“Unsubsidized student” means a student who is neither categorically eligible nor income-eligible for free or reduced price school meals, and who is, consequently, required to pay for any such meals that are served to the student under the National School Lunch Program or the federal School Breakfast Program.

2. Section 1 of P.L.1974, c.53 (C.18A:33-4) is amended to read as follows:

C.18A:33-4 School lunch, availability to all children; report to the Governor, Legislature; rules, regulations.

1. a. (1) Each school district shall make school lunch available to all students enrolled in the district, except at those schools that are exempt from the requirements of this section, as provided by section 2 of P.L.1974, c.53 (C.18A:33-5), within one year after the effective date of P.L.1974, c.53 (C.18A:33-4 et seq.).

(2) School lunches made available pursuant to this section shall meet minimum nutritional standards, established by the Department of Education.

(3) Free or reduced price lunches, as appropriate, shall be offered, under a school lunch program, to each student enrolled in the district who is determined to be federally eligible for free or reduced price meals. As provided by section 1 of P.L.2019, c.445 (C.18A:33-21.1), any student who is eligible for a reduced price lunch, pursuant to federal income eligibility standards and criteria, shall not be required to pay for such lunch. Free lunches shall also be offered to each student enrolled in the district who is federally ineligible for free or reduced price meals, but who has an annual household income that is not less than 186 percent, and not more than 199 percent, of the federal poverty level, as determined pursuant to section 16 of P.L.2022, c.104 (C.18A:33-21b1).

b. The State shall provide funding to each school district, as may be necessary to reimburse the costs associated with the district’s provision of free lunches, pursuant to subsection a. of this section, to students who are federally ineligible for free or reduced price meals.

c. The Department of Agriculture, in consultation with the Department of Education, shall annually prepare and submit, to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a written report that identifies, for each school and school district in the State:

(1) the methods that are being used by each school or school district to facilitate the prompt identification and subsidized meal certification of students who are categorically eligible or income-eligible for free or reduced price lunch under the National School Lunch Program; and

(2) the number and percentage of income-eligible students from low-income families and from middle-income families, respectively, that are receiving free or reduced price lunches under the National School Lunch Program and the provisions of this section.

d. The Department of Agriculture, in consultation with the Department of Education, shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section, including, but not limited to, rules and regulations establishing a schedule for, and identifying the manner in which, State-level reimbursements are to be made pursuant to subsection b. of this section.

3. Section 2 of P.L.1974, c.53 (C.18A:33-5) is amended to read as follows:

C.18A:33-5 Exemptions.

Any school at which less than five percent of enrolled students are federally eligible for a free or reduced price lunch shall be exempt from the provisions of P.L.1974, c.53 (C.18A:33-1 et seq.).

4. Section 1 of P.L.2003, c.4 (C.18A:33-9) is amended to read as follows:

C.18A:33-9 Findings, declarations relative to school breakfast programs.

1. The Legislature finds and declares that:

a. The federal School Breakfast Program is a federally assisted meal program that is implemented in public and nonprofit private schools and residential child care institutions nationwide, and is designed to ensure that each participating child receives breakfast containing at least one-fourth of the nutrients needed daily.

b. The federal School Breakfast Program was established in 1966 with the purpose of providing a nutritious, well-balanced breakfast to promote sound eating habits, and fostering good health and academic achievement for school-age children.

c. New Jersey ranks fiftieth in the nation for participation in the federal School Breakfast Program by schools offering school lunch, and the State has seen only modest increases in participation in recent years.

d. Research shows that school breakfast increases attendance and decreases tardiness, improves academic performance both in class and on standardized tests, improves attentiveness, and reduces emotional and behavioral problems among students from all backgrounds.

e. Based on the foregoing findings, it is clearly in the public interest for the State to require school districts to offer school breakfasts through the federal School Breakfast Program, and to publicize the availability of such breakfasts in their communities.

5. Section 2 of P.L.2003, c.4 (C.18A:33-10) is amended to read as follows:

C.18A:33-10 Establishment of School Breakfast Program in certain schools.

2. a. (1) A public school operated by a local or regional school district of the State in which 20 percent or more of the students enrolled in the school on October 1 of the preceding school year were federally eligible for free or reduced price meals under the National School Lunch Program or the federal School Breakfast Program, shall establish a school breakfast program in the school.

(2) A school district shall submit a school breakfast program plan for each school in the district that is subject to the requirements of paragraph (1) of this subsection. The plan for each school shall be adopted in compliance with, and pursuant to, federal School Breakfast Program requirements, and shall be submitted to the Department of Agriculture by the date required by subsection b. of this section, in a form and manner prescribed by the Secretary of Agriculture.

(3) Following the enactment of P.L.2022, c.104 (C.18A:33-3.2 et al.), a school district shall submit a new school breakfast program plan, in accordance with the provisions of section 6 of P.L.2022, c.104 (C.18A:33-10.1), for each school in the district that is subject to the requirements of paragraph (1) of this subsection. A new plan adopted pursuant to this paragraph and section 6 of P.L.2022, c.104 (C.18A:33-10.1) shall supersede any plan previously adopted for the school, pursuant to this section, and the adoption of a new plan

under this paragraph and section 6 of P.L.2022, c.104 (C.18A:33-10.1) shall cause the plan previously adopted under paragraph (2) of this subsection to become void and inoperable.

b. (1) A school district shall submit a plan, by November 1, 2003, for all grades of each school that has one or more of the grades pre-K through sixth grade and for which a plan is required by paragraph (2) of subsection a. of this section.

(2) A school district shall submit a plan, by November 1, 2004, for all grades of each school, other than the schools described in paragraph (1) of this subsection, for which a plan is required by paragraph (2) of subsection a. of this section.

c. The Department of Agriculture, in consultation with the Department of Education, shall review each school breakfast plan submitted pursuant to this section and make recommendations, if necessary, regarding how the school breakfast program can operate within the limits of the federal and State reimbursement rates for the federal School Breakfast Program.

d. The Department of Agriculture shall notify each school district that submits a school breakfast plan, pursuant to this section, of the completion of the department's review and any recommended changes to the plan, within three months after receipt of the plan, but no later than the February 1 following the date required for submission of the plan pursuant to subsection b. of this section.

e. A school district shall establish a school breakfast program in each of its schools, based on the plan submitted pursuant to paragraph (2) of subsection a. of this section, by September 1, 2004 for schools for which plans are required to be submitted pursuant to paragraph (1) of subsection b. of this section, and by September 1, 2005 for schools for which plans are required to be submitted pursuant to paragraph (2) of subsection b. of this section.

f. (1) If a school district does not submit a school breakfast plan to the Department of Agriculture, pursuant to paragraph (2) of subsection a. of this section, by the date required by subsection b. of this section, it shall establish a school breakfast program, in each of its schools in which a program is required pursuant to paragraph (1) of subsection a. of this section, based on a model plan provided by the department.

(2) The model plan developed by the department, for the purposes of this section, shall include recommendations on how a school breakfast program can operate within the limits of the federal and State reimbursement rates for the federal School Breakfast Program.

(3) The Department of Agriculture shall provide the model plan to the school district no later than March 1, 2004 for schools for which plans are required to be submitted pursuant to paragraph (1) of subsection b. of this section, and by March 1, 2005 for schools for which plans are required to be submitted pursuant to paragraph (2) of subsection b. of this section, and the school district shall establish the school breakfast program in each of its schools, based on the model plan, by September 1, 2004 for schools for which plans are required to be submitted pursuant to paragraph (1) of subsection b. of this section, and by September 1, 2005 for schools for which plans are required to be submitted pursuant to paragraph (2) of subsection b. of this section.

C.18A:33-10.1 Breakfast program established in schools, certain; plan, form submission.

6. a. (1) Notwithstanding the provisions of section 2 of P.L.2003, c.4 (C.18A:33-10) to the contrary, following the enactment of P.L.2022, c.104 (C.18A:33-3.2 et al.), each public school in the State in which 10 percent or more of the students enrolled in the school on October 1 of the preceding school year were federally eligible for free or reduced price meals under the National School Lunch Program or the federal School Breakfast Program shall establish a breakfast program in the school.

(2) A school district shall submit, to the Department of Agriculture, a school breakfast program plan for each school in the district that is subject to the requirements of paragraph (1) of this subsection. The plan shall be submitted in a form and manner prescribed by the Secretary of Agriculture and in accordance with the timeframes specified by subsection b. of this section.

b. (1) A plan for all grades in each school having one or more of the grades pre-K through sixth grade, shall be submitted by November 1, 2023.

(2) A plan for all grades in each school not described in paragraph (1) of this subsection shall be submitted by November 1, 2024.

c. The Department of Agriculture, in consultation with the Department of Education, shall review each school breakfast program plan submitted pursuant to this section and make recommendations, if necessary, regarding how the school breakfast program can operate most effectively, in accordance with federal School Breakfast Program requirements and the provisions of section 12 of P.L.2022, c.104 (C.18A:33-14a). The Department of Agriculture shall notify each school district of the completion of the department's review and any recommended changes to the plan, within 90 days after receipt thereof.

d. A school district shall establish a school breakfast program in each of its schools, based on the plan submitted pursuant to paragraph (2) of subsection a. of this section, by September 1, 2024 for schools for which plans are required to be submitted pursuant to paragraph (1) of subsection b. of this section, and by September 1, 2025 for schools for which plans are required to be submitted pursuant to paragraph (2) of subsection b. of this section.

e. (1) If a school district does not submit a school breakfast plan to the Department of Agriculture by the date required by subsection b. of this section, the district shall establish a school breakfast program, in each school for which a plan has not been submitted, based on a model plan provided by the department.

(2) The model plan developed by the department, for the purposes of this subsection, shall include recommendations on how a school breakfast program can operate in accordance with federal School Breakfast Program requirements and the provisions of section 12 of P.L.2022, c.104 (C.18A:33-14a).

(3) The department shall provide the model plan to a school district that is subject to this subsection by March 1, 2024 for schools for which plans are required to be submitted pursuant to paragraph (1) of subsection b. of this section, and by March 1, 2025 for schools for which plans are required to be submitted pursuant to paragraph (2) of subsection b. of this section, and the school district shall establish the school breakfast program in each of its schools, based on the model plan, by September 1, 2024 for schools for which plans are required to be submitted pursuant to paragraph (1) of subsection b. of this section, and by September 1, 2025 for schools for which plans are required to be submitted pursuant to paragraph (2) of subsection b. of this section.

f. (1) A school, or a school district acting on behalf of a school in the district, may, in a form and manner prescribed by the Department of Agriculture, apply to the department for a waiver of the breakfast program requirements established pursuant to paragraph (1) of subsection a. of this section.

(2) The department shall grant a waiver of the breakfast program requirements established pursuant to paragraph (1) of subsection a. of this section, and shall continue a waiver pursuant to paragraph (4) of this subsection, if the school, or the school district acting on behalf of the school, demonstrates to the department's satisfaction that the provision of a breakfast program at the school will result in financial hardship for either the school or the school district. Conditions under which a waiver may be granted shall include, but need not be limited to, the following:

(a) there is a lack of facilities or equipment necessary to offer a school breakfast program at the school, and the acquisition of such facilities or equipment would cause financial hardship to the school or school district; or

(b) program participation rates at the school are either too low to allow the program to operate on a cost-effective basis or would cause substantial scheduling difficulties.

(3) Not more frequently than biennially, the department may request that updated financial and demographic information be submitted to the department by a school, or by a school district acting on behalf of a school, which has obtained a waiver of school breakfast program requirements pursuant to this subsection. A school or school district, upon such request, shall submit the updated financial and demographic information in a form and manner and within a timeframe prescribed by the department.

(4) The department shall rescind a waiver previously granted under this subsection if it determines, based upon its review of updated financial and demographic information submitted pursuant to paragraph (3) of this subsection, that there has been a change in circumstances that has eliminated the financial hardship warranting continuation of the waiver pursuant to paragraph (2) of this subsection. Nothing in this paragraph shall be deemed to prohibit a school or school district from submitting a new waiver application, pursuant to paragraph (1) of this subsection, in one or more years following the rescission of a waiver pursuant to this paragraph.

(5) The department shall establish standards and procedures for the filing of waiver applications and the awarding and rescission of waivers pursuant to this subsection.

7. Section 3 of P.L.2003, c.4 (C.18A:33-11) is amended to read as follows:

C.18A:33-11 Implementation of school breakfast program by district.

3. In implementing a school lunch program, pursuant to P.L.1974, c.53 (C.18A:33-4 et seq.), a school breakfast program, pursuant to P.L.2003, c.4 (C.18A:33-9 et seq.) or section 6 of P.L.2022, c.104 (C.18A:33-10.1), or a breakfast after the bell program, pursuant to section 1 of P.L.2014, c.66 (C.18A:33-11.1) or section 2 of P.L.2018, c.25 (C.18A:33-11.3), each school and school district shall:

a. publicize, to parents and students, the availability of the respective school meals program, as well as the various ways in which a student may qualify to receive free or reduced price meals under the program, as provided by subsection a. of section 1 of P.L.1974, c.53 (C.18A:33-4) and subsection a. of section 12 of P.L.2022, c.104 (C.18A:33-14a);

b. make every effort to ensure that subsidized students are not recognized as program participants, by the student body, faculty, or staff, in a manner that is different from the manner in which unsubsidized students are recognized as program participants. Such efforts shall include, but need not be limited to, the establishment of a neutral meal plan or voucher system that does not make a distinction between subsidized and unsubsidized students; and

c. make every effort to:

(1) facilitate the prompt and accurate identification of categorically eligible students who may be certified to participate in the program, on a subsidized basis, without first submitting an application therefor, and, whenever an application is required to establish eligibility for subsidized meals, encourage students and their families to submit a subsidized school meals application for that purpose;

(2) facilitate and expedite, to the greatest extent practicable, the subsidized school meals application and income-eligibility determination processes that are used, by the school or school district, to certify a student for free or reduced price school meals on the basis of income, and assist parents and guardians in completing the school meals application; and

(3) encourage students who are neither categorically eligible nor income-eligible for free or reduced price school meals to nonetheless participate, on a paid and unsubsidized basis, in the program.

8. Section 1 of P.L.2014, c.66 (C.18A:33-11.1) is amended to read as follows:

C.18A:33-11.1 "Breakfast after the bell" program; report to Governor, Legislature.

1. a. A public school operated by a school district that participates in the federal School Breakfast Program, or a nonpublic school participating in the federal School Breakfast Program, is encouraged to increase the number of students participating in the program by establishing a breakfast after the bell program that incorporates school breakfast into the first-period classroom or the first few minutes of the school day.

b. The Department of Agriculture, in consultation with the Department of Education shall:

(1) make every effort to assist, guide, and support school districts, public schools, and nonpublic schools in planning, establishing, implementing, or modifying a breakfast after the bell program to increase the number of students, especially the number of students from low-income families and middle-income families, who are participating in each school breakfast program.

(2) (Deleted by amendment, P.L.2022, c.104)

9. Section 1 of P.L.2018, c.25 (C.18A:33-11.2) is amended to read as follows:

C.18A:33-11.2 Findings, declarations relative to the "breakfast after the bell" program.

1. The Legislature finds and declares that numerous studies document that childhood hunger impedes learning and can cause lifelong health problems; and that, in New Jersey, tens of thousands of children suffer from hunger each year, with nearly 540,000 students living in low-income families that are federally eligible for free or reduced price school meals.

The Legislature further finds and declares that New Jersey schools have made great strides in serving breakfast to more students at the start of the school day, achieving a 73 percent increase since 2010; and that, despite this progress, only 44 percent of low-income students in New Jersey received breakfast through the federal School Breakfast Program, according to the most recent data published by Advocates for Children of New Jersey, meaning that approximately 304,000 low-income students who were already enrolled in the program, as of April 2017, were not served this all-important morning meal.

The Legislature further finds and declares that New Jersey law, at section 2 of P.L.2003, c.4 (C.18A:33-10), requires a public school to provide school breakfast to its students if 20 percent or more of the students enrolled in the school on October 1 of the preceding school year were federally eligible for free or reduced price meals; that section 6 of P.L.2022, c.104 (C.18A:33-10.1) expands existing law so as to require a public school to provide school breakfast to students if 10 percent or more of the students enrolled in the school on October 1 of the preceding school year were federally eligible for free or reduced priced meals; that, despite these breakfast program requirements, current law does not specify how breakfast is to be served to students; and that, by requiring high-poverty schools to serve breakfast to students through a breakfast after the bell program, New Jersey schools will reach a much larger percentage of children in need, thereby helping to further their academic success.

The Legislature further finds and declares that the federal government reimburses schools for each meal served, and that this expansion can, therefore, be easily accomplished; that, since 2010, the amount of federal school breakfast reimbursements has more than doubled from about \$45 million to an anticipated \$105 million in fiscal year 2018; and that Advocates for



Children of New Jersey estimates that school districts could collect an additional \$89 million in federal funds for school breakfast each year if breakfast is served during the first few minutes of the school day.

The Legislature, therefore, determines that: it shall be the public policy of the State to help remove a major barrier to learning by providing children the nutrition they need to succeed in school; it is the understanding and the intention of the Legislature to make breakfast an integral part of the school day; and the implementation of breakfast after the bell programs is the most effective way to ensure that all students have the morning nutrition they need to concentrate, learn, and succeed in school.

10. Section 2 of P.L.2018, c.25 (C.18A:33-11.3) is amended to read as follows:

C.18A:33-11.3 Establishment of "breakfast after the bell" program in certain public schools.

2. a. Every public school in which 70 percent or more of the students enrolled in the school on or before the last school day before October 16 of the preceding school year were federally eligible for free or reduced price meals under the National School Lunch Program or the federal School Breakfast Program, shall establish a breakfast after the bell program.

b. (1) (a) No later than six months following the effective date of P.L.2018, c.25 (C.18A:33-11.2 et seq.), each school district shall submit, to the Department of Agriculture, a plan for the establishment of a breakfast after the bell program for all grades at each of the district's schools that are subject to the requirements of this section. The plan shall comply with the requirements of the federal School Breakfast Program.

(b) No later than the first full school year following the submission of the plan, the school district shall establish a breakfast after the bell program in each of its schools that are subject to the requirements of this section, in accordance with the plan submitted pursuant to this paragraph.

(2) (a) No later than six months after the effective date of P.L.2022, c.104 (C.18A:33-3.2 et al.), each school district shall submit, to the Department of Agriculture, a revised breakfast after the bell plan for each school in the district that is subject to the requirements of this section. The revised plan shall comply with federal School Breakfast Program requirements and the provisions of section 12 of P.L.2022, c.104 (C.18A:33-14a).

(b) No later than the first full school year following the submission of a revised plan pursuant to this paragraph, the school district shall modify the breakfast after the bell program operating in each of its schools that are subject to the requirements of this section, as may be necessary to implement the provisions of the revised plan.

(3) The Department of Agriculture, in consultation with the Department of Education, shall review each revised plan submitted pursuant to this subsection and make recommendations, if necessary, regarding how a school's breakfast after the bell program can operate most effectively, in accordance with the federal School Breakfast Program requirements and the provisions of section 12 of P.L.2022, c.104 (C.18A:33-14a). The Department of Agriculture shall notify each school district that submits a plan pursuant to this subsection of the completion of the department's review, and of any recommended changes to the plan, within 90 days after receipt thereof.

c. Upon application, a school district may be granted a waiver by the Department of Agriculture of the requirements of this section for any school in which more than 70 percent of eligible students received a meal under the school breakfast program during the preceding school year. A school district that requests a waiver shall provide relevant information, as may be required by the Department of Agriculture, to justify the request.

d. No later than three months after the effective date of P.L.2018, c.25 (C.18A:33-11.2 et seq.), the Department of Agriculture shall provide each school district with a list of resources that are available for the purposes of this section.

11. Section 4 of P.L.2018, c.25 (C.18A:33-11.5) is amended to read as follows:

C.18A:33-11.5 Guidelines.

4. The Department of Agriculture, in consultation with the Department of Education, shall develop guidelines, as may be necessary to facilitate the implementation and operation of breakfast after the bell programs by schools in the State, in accordance with the provisions of section 1 of P.L.2014, c.66 (C.18A:33-11.1), sections 1 and 2 of P.L.2018, c.25 (C.18A:33-11.2 and C.18A:33-11.3), and section 12 of P.L.2022, c.104 (C.18A:33-14a), including, but not limited to, guidelines, consistent with the provisions of section 1 of P.L.2015, c.15 (C.18A:33-21), concerning a school's receipt of payment, from unsubsidized students, for breakfasts served to such students under a breakfast after the bell program.

C.18A:33-14a School breakfast, minimum nutritional standards, eligibility.

12. a. (1) School breakfasts made available to students under a school breakfast program or a breakfast after the bell program shall meet minimum nutritional standards, established by the Department of Education.

(2) Free or reduced price breakfasts, as appropriate, shall be offered, under a school breakfast program or a breakfast after the bell program, to all enrolled students who are determined to be federally eligible for free or reduced price meals. As provided by section 1 of P.L.2019, c.445 (C.18A:33-21.1), any student who is eligible for a reduced price breakfast, pursuant to federal income eligibility criteria, shall not be required to pay for such breakfast. Free breakfasts shall also be offered to each enrolled student who is federally ineligible for free or reduced price meals, but who has an annual household income that is not less than 186 percent, and not more than 199 percent, of the federal poverty level, as determined pursuant to section 16 of P.L.2022, c.104 (C.18A:33-21b1).

b. The State shall provide funding to each school that operates a School Breakfast Program or a breakfast after the bell program, as may be necessary to reimburse the costs associated with the school's provision of free breakfasts, pursuant to subsection a. of this section, to students who are federally ineligible for free or reduced price meals.

c. The Department of Agriculture, in consultation with the Department of Education, shall annually prepare and issue, to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a written report that identifies, for each school and school district in the State:

(1) the methods that are being used by each such school or school district to facilitate the prompt identification and subsidized meal certification of students who are categorically eligible or income-eligible for free or reduced price breakfast under the federal School Breakfast Program;

(2) the number and percentage of income-eligible students from low-income families and from middle-income families, respectively, in each such school and district, who are receiving free or reduced price breakfast under the federal School Breakfast Program and the provisions of this section; and

(3) the methods that are being used, by each such school and district, to provide breakfast to students under the federal School Breakfast Program, including an indication as to whether breakfast is being provided to students through a breakfast after the bell program.

d. The Department of Agriculture, in consultation with the Department of Education, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section, including, but not limited to, rules and regulations establishing a schedule for, and identifying the manner in which, State-level reimbursements are to be made pursuant to subsection b. of this section.

13. Section 1 of P.L.2018, c.26 (C.18A:33-14.1) is amended to read as follows:

C.18A:33-14.1 Report of nonparticipation in school meal programs.

1. a. (1) A school district that participates in the National School Lunch Program or the federal School Breakfast Program shall take steps to maximize the use of federal resources and to minimize the debt that is incurred by families for school meals, in accordance with a protocol established by the Department of Agriculture. The protocol established by the department, pursuant to this paragraph, shall be adopted within 180 days after the effective date of P.L.2022, c.104 (C.18A:33-3.2 et al.), in consultation with the Department of Education, the School Nutrition Association of New Jersey, and all relevant stakeholders, and shall: (a) promote the increased certification of students from low-income families and middle-income families for free and reduced price school meals, in accordance with the provisions of P.L.2022, c.104 (C.18A:33-3.2 et al.); and (b) identify best practices to maximize the receipt and use of federal resources by the district's schools.

(2) The Department of Agriculture and Department of Education, in cooperation with each other, shall consult with, and provide direct assistance to, school districts to help them improve, simplify, and expedite the free and reduced price meal certification process and otherwise reduce the administrative burden on schools and school districts that results from such process.

(3) A school that serves lunch or breakfast to students and is eligible for special federal reimbursement under the Community Eligibility Provision, as provided by 7 C.F.R. Part 245, shall, to the greatest extent practicable, participate in, and maximize the receipt of federal resources available under, that special assistance alternative. Every school district in which there is at least one school that qualifies for the Community Eligibility Provision, but is not implementing it, shall report the reasons therefor, in writing, to the Department of Agriculture and the Department of Education, in the manner prescribed by those departments. The report shall include, but need not be limited to, a description of the specific impediments at the school district to implementing the program, the specific actions that could be taken to remove those impediments, and the specific steps required to successfully implement the program in the following school year.

b. The Department of Agriculture, in consultation with the Department of Education, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purposes of this section.

c. (Deleted by amendment, P.L.2022, c.104)

14. Section 1 of P.L.2015, c.15 (C.18A:33-21) is amended to read as follows:

C.18A:33-21 Provision of school meals.

1. a. (1) In the event that a school district determines that an unsubsidized student's school breakfast or school lunch bill is in arrears, the district shall contact the student's parent or guardian to provide notice of the arrearage, and shall provide the parent or guardian with a period of 10 school days to pay the amount due. If the student's parent or guardian has not made full payment by the end of the designated 10-day period, then the district shall again

contact the student's parent or guardian to provide notice of any action to be taken by the school district in response to the arrearage.

(2) A school district shall report at least biannually to the Department of Agriculture the number of students who are denied school breakfast or school lunch pursuant to this section.

(3) Nothing in this section shall be construed to require a school district to deny or restrict the ability of an unsubsidized student to access school breakfast or school lunch when the student's school breakfast or school lunch bill is in arrears.

b. A school or school district shall not:

(1) publicly identify or stigmatize an unsubsidized student who cannot pay for a school breakfast or a school lunch or whose school breakfast or school lunch bill is in arrears, for example, by requiring the student to sit at a separate table, by requiring that the student to wear a wristband, hand stamp, or identifying mark, or by serving the student an alternative meal;

(2) require an unsubsidized student, who cannot pay for a school breakfast or a school lunch, or whose school breakfast or school lunch bill is in arrears, to do chores or other work to pay for the school breakfast or school lunch;

(3) require an unsubsidized student to discard a school breakfast or school lunch after it has been served because of the student's inability to pay for a school breakfast or a school lunch or because money is owed for previously provided meals;

(4) prohibit an unsubsidized student, or a sibling of such a student, from attending or participating in non-fee-based extracurricular activities, field trips, or school events, from receiving grades, official transcripts, or report cards, or from graduating or attending graduation events, solely because of the student's unresolved meal debt; or

(5) require the parent or guardian of an unsubsidized student to pay fees or costs in excess of the actual amounts owed for meals previously served to the student.

c. If an unsubsidized student owes money for the equivalent of five or more school meals, a school district shall:

(1) (Deleted by amendment, P.L.2022, c.104)

(2) determine whether the student is categorically eligible or income-eligible for free or reduced price meals, by conducting a review of all available records related to the student, and by making at least two attempts, not including the initial attempt made pursuant to section 3 of P.L.2020, c.29 (C.18A:33-21b), to contact the student's parent or guardian and have the parent or guardian fill out a school meals application; and

(3) require a principal, or a person designated by the principal, to contact the parent or guardian of the unsubsidized student to offer assistance with respect to the completion of the school meals application, to determine if there are other issues in the household that have caused the child to have insufficient funds to purchase a school breakfast or school lunch, and to offer any other appropriate assistance.

d. A school district shall direct communications about a student's school breakfast or school lunch bill being in arrears to the parent or guardian and not to the student. Nothing in this subsection shall prohibit a school district from sending a student home with a letter addressed to a parent or guardian.

e. Notwithstanding the provisions of this section and the provisions of any other law, rule, or regulation to the contrary, an unsubsidized student shall not be denied access to a school meal, regardless of the student's ability to pay or the status of the student's meal arrearages, during any period of time in which the school is making a determination, pursuant to subsection c. of this section, as to whether the student is eligible for, and can be certified to receive, free or reduced price meals.

15. Section 1 of P.L.2020, c.29 (C.18A:33-21a) is amended to read as follows:

C.18A:33-21a Short title.

1. Section 1 of P.L.2015, c.15 (C.18A:33-21) and section 16 of P.L.2022, c.104 (C.18A:33-21b1), shall be known and may be cited as the "Hunger-Free Students' Bill of Rights Act."

C.18A:33-21b1 Information provided to parent, guardian.

16. a. At the beginning of each school year, or upon initial enrollment, in the case of a student who enrolls during the school year, a school district shall provide each student's parent or guardian with:

(1) information on the National School Lunch Program and the federal School Breakfast Program, including, but not limited to, information on the availability of free or reduced price meals for eligible students, information on the application and determination processes that are used to certify eligible students for subsidized school meals, and information on the rights that are available to students and their families under this section and section 1 of P.L.2015, c.15 (C.18A:33-21); and

(2) a school meals application form, as well as instructions for completing the application, and, as necessary, assistance in completing the application.

b. The school meals information and application provided to parents and guardians, pursuant to subsection a. of this section, shall:

(1) be communicated in a language that the parent or guardian understands;

(2) specify the limited purposes for which collected personal data may be used, as provided by subsection c. of this section; and

(3) be submitted to the parent or guardian either in writing or electronically. In the latter case, the school district shall use the usual means by which it communicates with parents and guardians electronically.

c. A school meals application that is completed by a parent or guardian shall be confidential, and shall not be used or shared by the student's school or school district, except as may be necessary to:

(1) determine whether a student identified in the application is eligible for free or reduced price school meals;

(2) determine whether the school or school district is required, by section 2 of P.L.2018, c.25 (C.18A:33-11.3) or by section 1 of P.L.2018, c.28 (C.18A:33-24), to establish a breakfast after the bell program, or to participate as a sponsor or site in the federal Summer Meals Service Program;

(3) ensure that the school receives appropriate reimbursement, from the State and federal governments, for meals provided to eligible students, free of charge, through a school lunch program, a school breakfast program, a breakfast after the bell program, a summer meals program, or an emergency meals distribution program; and

(4) facilitate school aid determinations under the "School Funding Reform Act of 2008," P.L.2007, c.260 (C.18A:7F-43 et seq.).

17. Section 1 of P.L.2019, c.445 (C.18A:33-21.1) is amended to read as follows:

C.18A:33-21.1 State required to pay difference between federal allocation and total cost of reduced price breakfast, lunch.

1. a. Notwithstanding any other law, or rule or regulation adopted pursuant thereto, to the contrary, a public school student who is eligible for a reduced price breakfast under the federal

School Breakfast Program or a reduced price lunch under the National School Lunch Program shall not be required to pay for any such reduced price breakfast or reduced price lunch.

b. The State shall pay the difference between the federal allocation for reduced price breakfasts and reduced price lunches and the total cost of the reduced price breakfasts and reduced price lunches that are served to public school students who are federally eligible for reduced price meals.

c. The Department of Agriculture, in consultation with the Department of Education, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section, including, but not limited to, rules and regulations establishing the schedule for, and identifying the manner in which, State-level reimbursements are to be made pursuant to subsection b. of this section.

18. Section 1 of P.L.2018, c.28 (C.18A:33-24) is amended to read as follows:

C.18A:33-24 Implementation of Summer Food Service Program.

1. a. Every school district in which 50 percent or more of the students enrolled in the school district on or before the last school day before October 16 of the preceding school year were federally eligible for free or reduced price meals under the National School Lunch Program or the federal School Breakfast Program, shall:

- (1) become a sponsor or site under the federal Summer Food Service Program; or
- (2) apply for a waiver pursuant to section 3 of P.L.2018, c.28 (C.18A:33-26).

b. No later than one year after the date of enactment of P.L.2018, c.28 (C.18A:33-24 et seq.), a school district that is required to become a sponsor or site under the Summer Food Service Program, pursuant to subsection a. of this section, shall submit, to the Department of Agriculture, either an application to become a sponsor of the federal Summer Food Service Program or documentation showing that the school district will become a site under an existing and approved sponsor.

c. (Deleted by amendment, P.L.2022, c.104)

d. A school district that is subject to the requirements of this section shall become a sponsor of the federal Summer Food Service Program or a site under an existing and approved sponsor, no later than two years following the date of enactment of this section.

19. Section 2 of P.L.2018, c.28 (C.18A:33-25) is amended to read as follows:

C.18A:33-25 Application.

2. a. Nothing in section 1 of P.L.2018, c.28 (C.18A:33-24) shall be deemed to prohibit a school district from becoming a sponsor or site under the Summer Food Service Program. Any school district that is not subject to the requirements of section 1 of P.L.2018, c.28 (C.18A:33-24), but that wishes to become a sponsor or site under the Summer Food Service Program, shall submit, to the Department of Agriculture, an application to become a sponsor or documentation showing that the school district will become a site under an existing and approved sponsor.

b. (Deleted by amendment, P.L.2022, c.104)

20. Section 1 of P.L.2020, c.6 (C.18A:33-27.2) is amended to read as follows:

C.18A:33-27.2 Provision of school meals during period of school closure.

1. a. In the event that a board of education is provided a written directive, by either the New Jersey Department of Health or the health officer of the jurisdiction, to institute a public

health-related closure due to the COVID-19 epidemic, the district shall implement a program, during the period of the school closure, to provide school meals, at meal distribution sites designated pursuant to subsection b. of this section, to all students enrolled in the district who are either categorically eligible or income-eligible for free or reduced price school meals.

b. In the event of an emergency closure, as described in subsection a. of this section, the school district shall identify one or more school meal distribution sites that are walkable and easily accessible to students in the district. The school district shall collaborate with county and municipal government officials in identifying appropriate sites. A school meals distribution site may include, but need not be limited to: faith-based locations; community centers, such as YMCAs; and locations in the school district where meals are made available through a summer meals program. In a school district that includes high density housing, the district shall make every effort to identify a school meal distribution site in that housing area.

c. A school district shall identify students enrolled in the district who are categorically eligible or income-eligible for free or reduced price meals, and for whom a school meal distribution site, identified pursuant to subsection b. of this section, is not within walking distance. In the case of these students, the school district shall distribute the school meals to the student's residence or to the student's bus stop along an established bus route, provided that the student or the student's parent or guardian is present at the bus stop for the distribution. Food distributed pursuant to this subsection may include up to a total of three school days' worth of food per delivery.

d. A school district may use school buses owned and operated by the district to distribute school meals pursuant to this section. In the case of a school district that does not own and operate its own buses, the district may contract for the distribution of school meals, and these contracts shall not be subject to the public bidding requirements established pursuant to the "Public School Contracts Law," P.L.1977, c.114 (C.18A:18A-1 et seq.).

e. A school district shall collaborate, as feasible, with other school districts and with local government units to implement the emergency meals distribution program, as required by this section, in order to promote administrative and operational efficiencies and cost savings.

f. School lunches and breakfasts that are made available, through an emergency meals distribution program operating pursuant to this section, shall be provided to eligible students, free of charge, in accordance with the provisions of subsection a. of section 1 of P.L.1974, c.53 (C.18A:33-4) and subsection a. of section 12 of P.L.2022, c.104 (C.18A:33-14a).

#### Repealer.

21. The following sections of law are repealed:

Section 4 of P.L.2003, c.4 (C.18A:33-12);

Section 3 of P.L.2018, c.25 (C.18A:33-11.4); and

Section 3 of P.L.2020, c.29 (C.18A:33-21b).

22. This act shall take effect on September 1, 2023, except that the Commissioner of Agriculture and the Commissioner of Education shall be authorized to take anticipatory administrative action, in advance of the effective date, as may be necessary to implement the provisions of this act.

Approved September 9, 2022.