



United States Department of Agriculture

Food and
Nutrition
Service

Braddock
Place

1320
Braddock
Place
Alexandria
VA 22302

DATE: March 17, 2023

MEMO CODE: SP 09-2023

SUBJECT: Community Eligibility Provision: Statutory Annual Notification and Publication Requirements and School Year 2023-2024 Election Deadline

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Issuing Agency/Office:	Food and Nutrition Service/Child Nutrition Programs
Title of Document:	Community Eligibility Provision: Statutory Annual Notification and Publication Requirements and School Year 2023-2024 Election Deadline
Document ID:	
Z-RIN:	
Date of Issuance:	March 17, 2023
Replaces:	Not Applicable
Summary:	(1) This guidance applies to State agencies and school food authorities administering the National School Lunch Program and the School Breakfast Program (2) This guidance provides a reminder of the annual Community Eligibility Provision notification and publication requirements and election deadline

This memorandum provides a reminder of the annual Community Eligibility Provision (CEP) notification and publication requirements. This memorandum also reminds State agencies that the statutory election deadline for local educational agencies (LEAs) to elect CEP for school year (SY) 2023-2024 is June 30, 2023.

Regulations at [7 CFR 245.9\(f\)\(6\)\(i\)](#) require State agencies to annually notify LEAs of district-wide eligibility for CEP. Similarly, LEAs must annually submit school-level eligibility data to the State agency [[7 CFR 245.9\(f\)\(5\)\(i\)-\(iii\)](#)]. By May 1 of each year, State agencies must publish lists of eligible and near-eligible LEAs and schools on their State agency websites. State agencies also provide the Food and Nutrition Service (FNS) a single link to these lists for publication on FNS' CEP website [[7 CFR 245.9\(f\)\(7\)](#)].

Last year, as LEAs transitioned from COVID operations to standard Program operations, FNS offered statewide waivers for CEP deadlines to allow State agencies and LEAs sufficient time to collect the necessary data. Although we expect that State agencies and LEAs will be prepared to meet the deadlines this year, if an LEA or State agency has a specific situation that warrants a waiver for this year, FNS will consider those on a case-by-case basis. FNS encourages State agencies to provide outreach and technical assistance to LEAs now to ensure they are able to meet the deadlines and have the information needed to make a timely decision about CEP election. The remainder of this memorandum provides detailed information to help State agencies and LEAs fulfill the CEP notification and publication requirements.

April 15 Notification and Data Collection

Two levels of data are required to complete the annual CEP notification process:

1. District-level eligibility data provided to LEAs by State agencies; and
2. School-level eligibility data provided to State agencies by LEAs.

Data used to prepare the notification lists must be from the current school year. State agencies and LEAs may use proxy data comprised of existing identified student and enrollment data from the FNS-742, *SFA Verification Summary Report*, and FNS-834, *State Agency (NSLP/SNAP) Direct Certification Rate Data Element Report* to fulfill notification and publication requirements. Proxy data may be used only to notify LEAs of possible eligibility; proxy data may not be used to calculate the identified student percentage (ISP) for eligibility or reimbursement purposes. If proxy data is used, the notification must include a note that the data provided is a proxy for actual eligibility.

LEAs interested in electing CEP must provide actual school-level identified student and enrollment data as of April 1 to participate.

LEA-Level Data

No later than April 15, State agencies must notify each LEA of the LEA's district-wide eligibility for CEP in the following categories and provide guidance to LEAs that want to elect CEP or enter a grace year:

- LEAs with a district-wide ISP of at least 40 percent (eligible for CEP);
- LEAs with a district-wide ISP greater than or equal to 30 percent but less than 40 percent (near-eligible for CEP);
- LEAs currently participating in CEP; and
- LEAs in the fourth year of CEP participation with a district-wide ISP greater than or equal to 30 percent but less than 40 percent (eligible for grace year).

State agencies may obtain the number of identified students to determine the district-wide CEP eligibility status from the *SFA Verification Summary Report* (FNS-742). The sum of

the data elements in Section 3 of the FNS-742 provides the number of identified students, and Section 1 of the FNS-742 provides enrollment information for State agencies to calculate the district-wide ISP. In LEAs operating CEP or another special provision in a non-base year, the number of identified students is available from the data used to complete the *State Agency (NSLP/SNAP) Direct Certification Rate Data Element Report* (FNS-834) Data Element#3.

School-Level Data

No later than April 15, LEAs must submit to their State agency lists of schools that:

- Have an ISP of at least 40 percent (eligible for CEP);
- Have an ISP greater than or equal to 30 percent but less than 40 percent (near eligible for CEP);
- Are currently participating in CEP; and
- Are currently in the fourth year of CEP participation with an ISP greater than or equal to 30 percent but less than 40 percent (eligible for grace year).

State agencies with access to school-level data may exempt LEAs from school-level notification requirements. The percentage of enrolled students directly certified with the Supplemental Nutrition Assistance Program (SNAP) may be used as a proxy for the school-level ISP. Proxy data may be used only to notify schools of possible eligibility; proxy data may not be used to calculate the ISP for eligibility or reimbursement purposes. If proxy data is used, the notification must include a note that the data provided is a proxy for actual eligibility. LEAs interested in electing CEP must provide actual school-level identified student and enrollment data as of April 1 to participate.

May 1 Publication on State Websites: District and School-level Data

By May 1, State agencies must post to their public websites lists of LEAs and schools in the categories described above and provide FNS with a single link to these lists. State agencies should email the link to their notification lists to FNS at cepnotification@usda.gov.

When completing the notification lists, one tool State agencies can use is the USDA-developed reporting template, which can be found at <https://www.fns.usda.gov/cn/cep-annual-notification-and-publication-requirements>. The template is intended to help States streamline notification and publication activities but is not required. This template is the same USDA-developed template that most States have used previously.

June 30 Election Deadline

An LEA that intends to elect CEP for the following school year must notify the State agency by June 30 [[7 CFR 245.9\(f\)\(4\)](#)]. Therefore, by Friday, June 30, 2023, LEAs that intend to elect CEP for SY 2023-2024 must:

1. Notify their State agency of their intent to elect CEP; and
2. Submit documentation showing the counts of identified and enrolled students (for schools electing CEP) as of April 1.

LEAs are strongly encouraged to keep contact information up to date with the State agency to ensure receipt of critical Program information and reminders.

State agencies are reminded to distribute this memorandum and attachment to program operators immediately. LEAs and other program operators should direct any questions concerning this guidance to their State agency. State agencies with questions should contact the appropriate Regional Office.

Sincerely,

Original Signed

Tina Namian
Director
School Meals Policy Division