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By Email (j.heywood@sau33.com)

Jennifer Heywood

Administrative Assistant to the Superintendent of Schools
Raymond School District, SAU 33
43 Harriman Hill Road
Raymond, NH 03077

Dear Ms. Heywood,

This letter is in response to the School Board's questions regarding Raymond School District Policy - EF: Food Service Management. This letter addresses the questions posed in your email of April 20, 2017, regarding RSA 189:11-a, VIII.

SB 371 of the 2016 legislative session amended RSA 189:11-a to require that if the District adopts a lunch meal payment policy that policy must ensure all students have access to a healthy school lunch. It also requires the District take reasonable steps to inform parents of the policy. Finally, it makes clear that no student will be subject to different treatment from the standard school lunch meal or school cafeteria procedures. We take this to mean that no student can be denied school lunch even if they do not pay for it. In short, the remedy for failure to pay is to pursue the parents for payment or for the completion of the paperwork to qualify for free or reduced meals. The failure to pay, however, cannot impact a student's right to receive a meal.

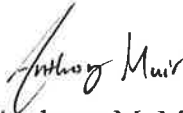
On November 15, 2016, the New Hampshire Department of Education ("DOE") issued a technical advisory regarding the changes to RSA 189:11-a as a result of SB 371. I have attached a copy of the technical advisory to this letter. The DOE advisory discusses federal regulations for school meal policies and cites FNS Instruction 765-7 Revision 2's recommendation that in the event that a student is not current on their school meal account, at the very least an alternative meal must be proffered to preprimary (any child who has not entered the first grade) and young primary students (elementary students), or for any handicapped/disabled students who may be unable to take full responsibility for a meal payment. Based on this guidance and federal USDA regulations already in place, the DOE expressed the opinion that the changes to RSA 189:11-a and its additional requirements for equal treatment of students were intended to apply only to elementary school students.

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We disagree with the DOE's interpretation that RSA 189:11-a, VIII applies only to elementary school students. The plain language of the statute states that **no student** will be subject to different treatment from the standard school meal policy or cafeteria procedure. We believe this places a stricter requirement on school districts than the federal guidelines cited in the technical advisory. Based on the plain language of the statute we recommend that any meal payment policy the School Board chooses to adopt equally apply to all students in the District, including middle school and high school students.

We have reached out to the DOE for an explanation of its position but have not yet received a response. I will keep you informed of any additional information we receive from the DOE regarding its interpretation. However, even if the DOE's interpretation is correct, there are no issues with going above and beyond the requirements of the law through providing lunches to middle school and high school students in arrears.

Best regards,



Anthony M. Muir

AMM/
Enclosure



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Effective July 2, 2016, the New Hampshire Bill SB 371 was enacted which will amend RSA 189:11-a. This Technical Advisory provides information regarding meal charge policies.

I. Actual Text

1. New Paragraph: School Boards: Food and Nutrition Programs. Amend RSA 189:11-a by inserting after paragraph VII the following new paragraph:

VIII. A school lunch meal payment policy which is implemented by a school board either before or after the effective date of this section shall ensure that all students have access to a healthy school lunch, that the school district will make every reasonable effort to inform parents of the policy, and that no student will be subject to different treatment from the standard school lunch meal or school cafeteria procedures. The department of education or the state board of education, upon request of the local school board, may provide communication assistance to school districts and parents of school children regarding the school lunch meal payment policy.

II. Department Comment:

Schools participating in the National School Lunch and Breakfast Programs provide healthy, nutritious meals to students each day. Title 7, Code of Federal Regulations (7CFR), Part 210.10(a)(1): General nutrition requirements states that "Schools must provide nutritious and well-balanced meals to all the children they serve." The nutritious and well-balanced meals are also known as reimbursable meals, which are meals that follow the meal pattern guidelines as put forth by the United States Department of Agriculture (USDA). (<http://www.fns.usda.gov/school-meals/nutrition-standards-school-meals>) In turn, schools receive federal funds for reimbursable meals served to all students.

7 CFR 245.5 states that parents or guardians of all children in attendance at a school participating in a Federal school meals service program must be informed of the availability of reimbursable school meals and must be provided information about applying for free or reduced price meals at any time. Households, in turn, may complete and submit a free and reduced price meal application to the school food service department, or the applicable official at the LEA. In addition, at the beginning of the school year and throughout the school year as appropriate, schools provide notice to households whose children are on the Direct Certification List who are automatically eligible for free meals and who do not need to submit a free and reduced price meal application.

School meal program information must include the opportunity to apply for free or reduced price meals, the cost of the school meals, how parents provide payments for school meals, and any school policies regarding non-payment or meal charging. (SP 46-2016 and SP 57-2016) This is also

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an opportunity for parents to learn how the student accounts are managed, whether manually (such as the collection of tickets), computerized with swipe cards or anything in between.

Considerations for creating meal charging policies/standard practice

SP 46-2016 requires all SAUs operating a Federal school meal program to have in place a written and clearly communicated system to address meal charges. The policy or standard practice must consist of a written document explaining how the SAU will handle situations where children eligible to receive reduced price or paid meals do not have money in their account or in hand to cover the cost of their meal at the time of service. SAUs must develop policies/standard practices regarding, for example, the expectations for pre-payments for meals for both paid and reduced price participants, the purchase of any a la carte items as being done on a cash basis only with no charging allowed, and the steps that the school will take in the event that the parents have not provided sufficient payments for meals for either paid or reduced price participants. Certain USDA regulations will affect the meal charging policies/standard practice.

1. Schools must inform students and parents or guardians about how students who pay the full or reduced price cost of a reimbursable meal are impacted by having insufficient funds on hand or in their account to purchase a meal. Policies/standard practices for meal charging must be provided to the State agency during the Administrative Review and be in place as of July 1, 2017. (reference SP 46-2016)
2. Schools may **not** do the following (reference United States Department of Agriculture, Food and Nutrition, Instruction 765-7, Revision 2):
 - Deny meals to free students regardless of any other charges at the school;
 - Deny meals to any student for disciplinary reasons;
 - Deny meals because of unpaid charges if the student has money in hand for the current day's meal.
3. According FNS Instruction 765-7, Revision 2 (taken from: [www.fns.usda.gov/school-meals/faqs#Denial of Meals](http://www.fns.usda.gov/school-meals/faqs#Denial%20of%20Meals)), at the very least the alternate meal must always be offered to preprimary (any child who has not entered the first grade) and young primary students (elementary students), or for any handicapped/disabled students who may be unable to take full responsibility for a meal payment. The meal offered to the disabled student must conform to the special dietary needs requirements of the student, if applicable.
4. The SAU must ensure the policy/standard practice is provided in writing to all households at the start of each school year and to households transferring to the school or school district during the school year. For example, SAUs are encouraged to include the policy/standard practice in student handbooks and/or on online sites that households use to access student accounts. (reference SP 47-2016 and SP 57-2016)

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5. Policies/standard practices regarding meal charging will also include information about recovering unrecovered/delinquent debt. Please refer to Title 2, Code of Federal Regulations (2CFR), Section 200.426, SP 47-2016 and SP 57-2016 for further information on debt.

III. SB 371

The State (SB 371) ruling supports the USDA meal charging regulations already in place, is intended for elementary schools, and allows for meal payment policies/standard practices in all public schools in the State. It specifies the following:

1. *"All students will have access to a healthy school lunch."*
The meal offered through the meal policy/standard practice must be a meal choice for every student in the elementary school, follow USDA meal pattern guidelines and regulations and therefore be a healthy school lunch. For example, if the meal designated in the meal charge policy/standard practice is a sun-butter and jelly sandwich, this entrée must be a choice for all students and be in compliance with the USDA meal pattern requirements.
2. *"The school district will make every reasonable effort to inform parents of the policy."*
Please refer to #4 under Considerations found above. This may be accomplished in a number of ways. Examples include, the policy/standard practice is included in the school handbook or the policy/standard practice is on the SAU or school website.
3. *"No student will be subject to different treatment from the standard school lunch meal or school cafeteria procedures."*
The standard school lunch meal consists of 5 components. Therefore the meal designated in the meal charge policy/standard practice of the SAUs school cafeteria(s) must also consist of 5 components and meet the meal pattern regulations. The children shall not be required to use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance or consume their meals or milk at a different time. (Supported by FNS Instruction 113-1 – Civil Rights compliance and enforcement)
4. *"The department of education or the state board of education, upon request of the local school board, may provide communication assistance to school districts and parents of school children regarding the school lunch meal payment policy."* Communication assistance is provided to school districts and parents of school children regarding the school lunch payment policy requirements through the Technical Advisory which is made public by the New Hampshire Department of Education.

Resources are available for meal charge policies and can be found at:

<http://www.fns.usda.gov/school-meals/unpaid-meal-charges>

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IV Contact: Cheri White, Administrator, Bureau of Nutrition Programs and Services, phone (603) 271-3860 or cheri.white@doe.nh.gov

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