

# RULE ADOPTIONS

## AGRICULTURE

### (a)

#### DIVISION OF FOOD AND NUTRITION

##### Child Nutrition Programs

##### Readoption with Amendments: N.J.A.C. 2:36

Proposed: June 3, 2024, at 56 N.J.R. 933(a).

Adopted: August 28, 2024, by the State Board of Agriculture and

Edward D. Wengryn, Secretary, Department of Agriculture.

Filed: September 3, 2024, as R.2024 d.093, **without change**.

Authority: N.J.S.A. 18A:33-4 and 5 and 18A:33-9 et seq.

Effective Dates: September 3, 2024, Readoption;

October 7, 2024, Amendments.

Expiration Date: September 3, 2031.

##### Summary of Public Comment and Agency Responses:

In response to the notice of proposed readoption of N.J.A.C. 2:36 with amendments, the Department of Agriculture ("Department" or "NJDA") received a single email with comments from a Jean Publicee.

COMMENT: In their comments, Jean Publicee criticizes the proposed replacement of the "20 percent threshold" with a "10 percent threshold" at N.J.A.C. 2:36-1.1, 1.4(a), and 1.6(b). Jean Publicee asserts that that change is "going the wrong way" in terms of the resulting tax burden that she claims it places on the citizens of New Jersey, and that a 30 percent threshold should be used instead, contending that the rule change amounts to a "totally undemocratic way to increase spending" that amounts to a "tax increase[ ] via the regulatory route."

RESPONSE: The Department does not agree. The rule change from a 20 percent threshold to a 10 percent threshold reflects a statutory change that was made by the Legislature in 2022 through P.L. 2022, c. 104. N.J.S.A. 18A:33-10.1a(1) now provides that "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." As an administrative agency, the Department lacks the authority to deviate from or otherwise ignore the statutory directive at N.J.S.A. 18A:33-10.1a(1). Therefore, this rulemaking merely incorporates the new statutory threshold; it is not a tax increase by regulation.

##### Federal Standards Analysis

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-23 (P.L. 1995, c. 65), require administrative agencies that adopt, readopt, or amend any State rules that exceed any Federal standards or requirements to include in the rulemaking a comparison between the two sets of standards. If a State standard exceeds a Federal standard, then a cost benefit analysis must also be included. The rules readopted with amendments are in accordance with the Federal school nutrition regulations, and their implementation is primarily funded by Federal United States Department of Agriculture Child Nutrition funds as per 7 CFR Parts 210, 220, and 215. The adopted amendments are necessitated by the amendments at N.J.S.A. 18A:33-4.a that require public and charter schools to offer free lunch 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.

Pursuant to the Federal rules, school participation in Federal school nutrition programs is optional. The rules readopted with amendments exceed the Federal rules in that they require all schools with five percent or more of enrolled students eligible for free or reduced-priced meals to provide a school lunch program and/or any school with 10 percent or more of enrolled students eligible for these same benefits to offer the school breakfast program and to offer free and reduced-price meals to all eligible students. This requirement implements State statutes (N.J.S.A. 18A:33-4,

18A:33-5, and 18A:33-10.1). The rules readopted with amendments also require the State to establish a maximum per meal and milk charge, which are not explicitly required by Federal regulations. The Federal regulations do set a maximum charge for reduced-price meals and suggest that pricing otherwise take into consideration the Federal subsidy; the rules readopted with amendments put that suggestion into operation by setting a maximum charge that includes the Federal subsidy as one of the parameters. Additionally, the adopted amendments require schools to offer free lunch to students who are ineligible for Federal meals but meet State-level income requirements of having an annual household income that is not less than 186 percent of, and not more than 199 percent of, the Federal poverty level. These changes implement the State statutory requirements at N.J.S.A. 18A:33-4 and could not be limited without statutory change.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 2:36.

**Full text** of the adopted amendments follows:

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 2:36-1.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Ten percent threshold" means the point at which 10 percent or more of the total school enrollment of each school is Federally eligible for free or reduced-price meals and/or free milk.

...

##### 2:36-1.3 Federal eligibility

The Division shall administer Federal eligibility standards pursuant to the Federal Income Eligibility Guidelines set forth at 7 CFR Part 245 for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools. These Federal standards shall be used by all sponsors participating in the child nutrition programs and by all nonparticipating schools for the purpose of completing the survey as required at N.J.A.C. 2:36-1.4.

##### 2:36-1.4 Survey

(a) By the last school day prior to October 16 of each school year, each school, under the supervision of its sponsor, shall survey the parent or guardian of each student enrolled to determine which students are Federally eligible to receive free or reduced-price meals and/or free milk. The purpose of the survey is to determine whether the school meets or exceeds the five percent threshold established at N.J.S.A. 18A:33-5 for school lunch programs and the 10 percent threshold established for school breakfast programs at N.J.S.A. 18A:33-10.1.

(b)-(c) (No change.)

##### 2:36-1.5 Free and reduced-price meal and/or free milk application

(a)-(b) (No change.)

(c) Applications in languages other than English must be provided by the school food authority where non-English speaking parents are possible applicants. (An application in Spanish is available from the Division of Food and Nutrition.) Other language translations are available on the USDA Food and Nutrition Service website.

(d) Upon receipt of the completed application, the district must determine each student's Federal eligibility for a free or reduced-price meal and/or free milk from the information submitted. Each student shall be offered free or reduced-price meals and/or free milk as soon as Federal eligibility has been determined. Students are eligible for school meal benefits or free milk for the school year and up to 30 operating days in the subsequent school year. If the school has reason to question the information provided, the student affected must continue to receive the Federal free or reduced-price meals and/or free milk until completion of the appeal procedures set forth in the sponsor's policy pursuant to Federal

regulations (7 CFR 245.7 Hearing Procedure for Families and School Food Authorities).

(e) (No change.)

(f) If the student is found to be Federally ineligible for free or reduced-price school meals, the district must then determine the student's eligibility for a State-funded free lunch, pursuant to N.J.S.A. 18A:33-4.a, in accordance with the State-specified income eligibility guidelines described therein.

#### 2:36-1.6 Participation requirements

(a) (No change.)

(b) Any school in which 10 percent or more of the school enrollment is found to be Federally eligible for free or reduced-price meals as of October 1 of the preceding school year, shall offer the School Breakfast Program to all students enrolled in that school, with free and reduced price breakfasts offered to all qualifying children. Such breakfasts shall meet minimum nutritional standards established by the U.S. Department of Agriculture, 7 CFR 220.8. Any school may participate in the School Breakfast Program without participating in any other Federal programs.

1. Any school meeting the 10 percent threshold that requires the implementation of the School Breakfast Program must comply with the following requirements:

i.-ii. (No change.)

(c)-(d) (No change.)

#### 2:36-1.9 Review and evaluation

(a) (No change.)

(b) Federal and State Child Nutrition Program funds may be withheld and/or fiscal action may be taken against sponsors (see 7 CFR 210.19(c), 215.12(a), 220.14(a), and 245.10) found not to be in compliance with applicable Federal regulations (7 CFR Parts 210, 215, 220 and 245).

(c) (No change.)

#### 2:36-1.12 Meal accountability

Sponsors shall count and record daily, at the point of service, the number of meals/snacks or milk served by category (Federal free, Federal reduced price, and Federal paid). In addition, those sponsors that have determined students eligible for State-funded free lunch pursuant to N.J.S.A. 18:33-4.a and the income eligibility guidelines described therein shall count and record daily, at the point of service, the number of free lunches served pursuant to the State program.

## BANKING

### (a)

#### DEPARTMENT OF BANKING AND INSURANCE DIVISION OF BANKING

##### Notice of Readoption Savings Account Promotions

##### Readoption: N.J.A.C. 3:37

Authority: N.J.S.A. 17:1-15.e and P.L. 2015, c. 236.

Authorized By: Justin Zimmerman, Acting Commissioner,  
Department of Banking and Insurance.

Effective Date: August 28, 2024.

New Expiration Date: August 28, 2031.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 3:37 were scheduled to expire on October 2, 2024. The rules implement P.L. 2015, c. 236, which permits financial institutions to conduct savings account promotions.

N.J.A.C. 3:37-1.1 sets forth the purpose and the scope. N.J.A.C. 3:37-1.2 sets forth definitions of certain words used in the subchapter. N.J.A.C. 3:37-1.3 sets forth the required minimum standards and disclosures that a financial institution must make to customers participating in the savings account promotion and the criteria that must be met to establish eligibility for participation. N.J.A.C. 3:37-1.4 requires financial institutions

conducting savings account promotions to maintain appropriate books and records.

The Department of Banking and Insurance has reviewed these rules and has determined that the rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c, these rules are hereby readopted and shall continue in effect for a seven-year period.

## CHILDREN AND FAMILIES

### (b)

#### DIVISION OF CHILD PROTECTION AND PERMANENCY

##### Notice of Readoption Service Delivery General Provisions

##### Readoption: N.J.A.C. 3A:11

Authority: N.J.S.A. 9:3A-7.f and g, and 30:4C-4(h).

Authorized By: Christine Norbut Beyer, M.S.W. Commissioner.

Effective Date: August 30, 2024.

New Expiration Date: August 30, 2031.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 3A:11 were scheduled to expire on October 2, 2024. The chapter describes certain services provided by the Division of Child Protection and Permanency (Division), the processes used by the Division to determine what actions to take in response to an abuse or neglect report, referral, or application for services, what applicants and clients may expect of the Division, and any standards and requirements for applicants, clients, and the Division related to those services. Subchapter 1 describes the purpose of the chapter, the scope of applicability, definitions, rights of applicants and clients, responsibilities of the Division, and service limitations.

The Department of Children and Families has reviewed the rules at N.J.A.C. 3A:11 and found them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

## EDUCATION

### (c)

#### STATE BOARD OF EDUCATION

##### Interdistrict Public School Choice Program

##### Readoption with Amendments: N.J.A.C. 6A:12

##### Adopted Recodification with Amendments: N.J.A.C. 6A:12-4.1 as 3.4

##### Adopted Repeals: N.J.A.C. 6A:12-3 and 6

Proposed: April 15, 2024, at 56 N.J.R. 533(a).

Adopted: September 5, 2024, by the State Board of Education,

Kevin Dehmer, Acting Commissioner, Department of Education  
and Acting Secretary, State Board of Education.

Filed: September 5, 2024, as R.2024 d.095, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 18A:36B-1 et seq., specifically 18A:36B-14 through 24.

Effective Dates: September 5, 2024, Readoption;  
October 7, 2024, Amendments, Recodification,  
and Repeals.

Expiration Date: September 5, 2031.