



FOOD AND NUTRITION Issue Brief

Summary of State Laws Addressing the School Breakfast Gap


Introduction

In the United States, only half the students who eat school lunch also start their day with a healthy school breakfast.¹ This “school breakfast gap” is a missed opportunity for low-income school students to start their day with a healthy meal, which is proven to improve academic success and health outcomes.² One in five American children struggle with hunger and three of four teachers say they teach kids who regularly come to school hungry.³ The fact that low-income students are not eating breakfast worsens food insecurity, which has been shown to impair the mental and emotional development of children, make it harder for children to learn, and lead to a host of chronic health conditions.⁴ This issue brief examines the framework of the National School Lunch and School Breakfast Programs, the school breakfast gap and its subsequent public health impacts, and the most prevalent state interventions to bridge the breakfast gap.

I. Framework of National School Lunch and School Breakfast Programs

In order to appreciate the impact of the school breakfast gap, it is important to understand the structure and function of the major federal school nutrition programs. The National School Lunch Program (“NSLP”)⁵ and the School Breakfast Program (“SBP”)⁶ are child nutrition programs administered by the U.S. Department of Agriculture’s Food and Nutrition Service (“USDA-FNS”) to provide food in school or institutional settings.⁷ These programs are operated by public and private schools throughout the country that opt to enroll in the programs and guarantee to offer free or reduced-price meals to eligible low-income children.⁸ While federal law does not mandate school participation, some states mandate that their schools provide lunch and/or breakfast.⁹ The USDA-FNS administers school meal programs at the federal level, providing federal funds to serve meals and setting program standards for participation and qualifying meals.¹⁰ State agencies like departments of education receive these federal funds to distribute to local school districts that serve the meals.¹¹ The state agencies also generally oversee school nutrition programs and create additional standards for the school nutrition programs operated in their jurisdiction.¹²

Federal funding for the NSLP and SBP is referred to as an appropriated entitlement, meaning that federal money is provided to the programs through the annual federal appropriations process.¹³ The level of spending is determined by benefit and eligibility criteria under federal law.¹⁴ Generally, some subsidy (reimbursement) is provided to schools for all



meals served under three meal categories: free, reduced price, and full price.¹⁵ Eligibility for these three distinct meal categories is determined by the household income of the child's family. Children receive free meals if they have household income at or below 130% of the federal poverty guidelines.¹⁶ Children receive reduced-price meals if their household income is above 130% and less than or equal to 185% of the federal poverty guidelines.¹⁷ Children who do not qualify for free or reduced-price meals pay full price for meals at a price set by the school in compliance with federal regulations.¹⁸ Both lunch and breakfast meal categories are determined by the same measure of financial need, so anyone who is eligible for a free or reduced-price lunch is automatically also eligible for free or reduced-price breakfast.¹⁹ Notably, "[t]he majority of meals served through SBP are free or reduced-price . . . 79.1% (11.6 million) received free meals and 5.7% (835,000) purchased reduced-price meals."²⁰ Since federal funding does not cover the full cost of meals offered by NSLP and SBP providers, the remaining cost for meals and snacks is paid for by children's families or states or localities that choose to supplement federal funding with additional funding or per-meal reimbursement.²¹


Federal assistance provided to schools includes cash funding, USDA commodity food, and administrative support, distributed based on the number of reimbursable meals served to children in both public and private schools.²² To be reimbursable, a meal served by the school must comply with federal school nutrition standards.²³ The federal reimbursement rate is greater for meals served to qualifying low-income individuals who may receive free or reduced-price meals, but full price meals are still reimbursed at a lower rate.²⁴ For example, in 2018, the federal reimbursement for schools not in severe need was \$1.79 for each free breakfast, \$1.49 for each reduced-price breakfast, and \$0.31 for each full price breakfast.²⁵ Schools that qualify for severe need assistance are those that served 40% or more lunches at a free or reduced price during the second most recent school year.²⁶ The federal reimbursement for schools in severe need was \$2.14 for each free breakfast, \$1.84 for each reduced-price breakfast, and \$0.31 for each full price breakfast.²⁷

II. The School Breakfast Gap and its Public Health Impacts

The school breakfast gap refers to the "large gap [or difference] between the number of children who are eligible for free or reduced-price meals at school and those who are actually accessing these meals."²⁸ The number of low-income students who eat breakfast is half the number of students who eat school lunch.²⁹ While 22 million low-income students eat school lunch, only about 12 million eat school breakfast (these numbers only reflect children who qualify for free and reduced priced meals).³⁰ Also, "[s]ignificantly fewer schools and students participate in SBP than in NSLP."³¹ This is reflected in the programs' expenditures, which are much lower for SBP.³² The federal expenditures on the NSLP totaled \$13.6 billion in fiscal year 2017 with 30 million children on average participating daily, accounting for 58% of children enrolled in participating schools (these numbers include students who qualify for free, reduced, and full price meals).³³ In contrast, SBP federal expenditure was only \$4.3 billion with an average of 14.7 million children participating daily, accounting for 30.1% of the students enrolled in participating schools (these numbers include students who qualify for free, reduced, and full price meals).³⁴ It is possible that some children eat breakfast before coming to school, but data suggests that at least 10 million children who need a healthy school breakfast do not get one.³⁵

A. Barriers to Accessing School Breakfast

While evidence demonstrates that school breakfast can positively impact a child's life in many ways, there are barriers that prevent students from accessing school breakfast.³⁶ These barriers include inability to arrive at school early to eat breakfast and fear of stigma among peers. Since breakfast has typically been served before the school day starts, it is difficult for parents to get their kids to school early enough.³⁷ Children who do not get to school in time will be hungry until lunch and likely less focused on learning. Further, school-aged children tend to be conscious of what their peers think of them, so even if kids qualify for free or reduced-price breakfast and are hungry, they may skip school breakfast so that classmates do not think they are "one of 'the poor kids.'"³⁸ Students who are only eligible for reduced-price breakfast also may face a financial barrier and skip school breakfast because their family cannot afford to pay. There are additional



obstacles to schools implementing changes that could decrease the school breakfast gap including opposition from teachers and principals, increasing food waste, logistical limitations, and financial limitations.³⁹

B. Academic Impact

School breakfast benefits kids in many ways, resulting in higher test scores, calmer classrooms, fewer trips to the nurse, stronger attendance, higher graduation rates, and benefits to our country's future.⁴⁰ Specifically, students who eat school breakfast have been shown to achieve 17.5% higher scores on standardized math tests and attend 1.5 more days of school per year.⁴¹ Additionally, these academic impacts influence a child's future since students who attend class more regularly are 20% more likely to graduate from high school, and high school graduates typically earn \$10,090 more per year than non-graduates.⁴² Although school breakfast has all of these various benefits, "just over half of the low-income students who eat school lunch are also eating school breakfast."⁴³ Research indicates that if the percent of elementary and middle school kids eating both free or reduced-price lunch and school breakfast was increased from about 50% to 70%, 3.2 million students could achieve better standardized test scores, school absences would decrease by 4.8 million per year, and 807,000 more students would graduate from high school.⁴⁴

C. Health Impact on Children


School breakfast programs help to alleviate many of the devastating physical, emotional, and cognitive impairments caused by food insecurity. Food insecurity is heavily linked to higher rates of obesity in children and adolescents. Food insecure children are 27 times more likely to be overweight or obese by age 4 than their food secure peers.⁴⁵ Further, obesity is highly correlated with a number of other chronic health issues, including cardiovascular disease, hypertension, diabetes, and joint degeneration.⁴⁶ Studies have shown that overweight adolescents are far more likely to require medical treatment for asthma, diabetes, and respiratory problems than average weight adolescents.⁴⁷ In addition to the physical health conditions, obesity is associated with a myriad of negative emotional and cognitive impacts. Research indicates that among children 12 to 14 years-old, those who were overweight or obese were significantly more likely to be depressed, report low self-esteem, and have poor social functioning compared to children with average weight.⁴⁸ Studies have shown that obesity amongst adolescents is also linked to increased rates of sadness, loneliness, nervousness, smoking, and alcohol consumption, and higher rates of suicide amongst girls.⁴⁹ There are a few key state policy fixes that could help break down barriers causing the school breakfast gap, to make breakfast more accessible to hungry children.

III. State Legal Interventions

In order to bridge the breakfast gap and reduce food insecurity among children, states have enacted a number of policies to increase participation in school breakfast programs. These laws are best categorized as (1) requiring schools to offer breakfast; (2) requiring schools to provide innovative breakfast models; (3) providing funds for new breakfast model start-up/expansion costs; (4) providing universally free breakfast; (5) eliminating the reduced-price category; and (6) providing additional per-meal reimbursements.

1. Schools Required to Offer Breakfast

Twenty-nine states and the District of Columbia mandate that their schools offer breakfast to students.⁵⁰ Although federal law governing the SBP does not require all schools to adopt the program and offer breakfast, a majority of states have adopted a policy that requires schools within the state to offer breakfast to feed hungry children.⁵¹ However, many states that mandate school breakfast have a threshold that activates the requirement or allow for exemptions or waivers.⁵²



State thresholds are based on the financial need of the population served by the school or school district.⁵³ Universally, this need is measured by the number of students eligible for free or reduced-price meals.⁵⁴ Eight states do not have a threshold and always require schools to offer breakfast.⁵⁵ Other states require breakfast based on the percent of students eligible for free or reduced-price meals with the threshold percentage ranging from 10% to 80%.⁵⁶ For example, Texas requires schools to offer breakfast if 10% or more of the students at a public school are eligible for free or reduced-price breakfast,⁵⁷ but Connecticut has a much higher threshold, only requiring schools to offer breakfast if 80% of school lunches served are free or reduced-price meals.⁵⁸ Other common thresholds require schools to offer breakfast if they have between 20% to 40% of students eligible to receive free or reduced-price meals.⁵⁹

In addition to thresholds, states also provide exemptions or time limited waivers to the requirement that schools offer breakfast, usually based on financial difficulties, extreme hardship, good cause, or low participation in the previous year.⁶⁰ Generally, even though there are thresholds and exemptions, several states that have passed laws to make breakfast more widely available have seen increases in breakfast participation rates.⁶¹

2. Innovative Breakfast Models Required

Another prominent policy aimed at combating food insecurity is requiring schools to provide innovative breakfast models for students. Innovative breakfast model refers to the broad spectrum of policies states and local governments have adopted to address the logistical, social, and financial barriers to participation in the School Breakfast Program. However, the most prevalent form of innovative breakfast model is the breakfast after the bell program. This program can take shape in a myriad of ways, but is tailored to increasing access to and convenience of a nutritious breakfast by providing breakfast during the school day.⁶² However, innovative breakfast policies are not confined to breakfast after the bell and may include innovative ways of serving breakfast before the school day begins.


Currently, ten jurisdictions require schools to provide innovative breakfast models to students.⁶³ A number of states only require innovative breakfast models in schools with high numbers of students eligible for free and reduced-price meals. For example, Illinois, New Jersey, and New York only require innovative breakfast models in schools where 70% or more of students are eligible for free and reduced-price meals.⁶⁴ Similarly, New Mexico only requires innovative breakfast models in schools where 85% or more of students are eligible for free and reduced-price meals.⁶⁵ Connecticut is unique in that it only requires schools to provide innovative breakfast models if the school is awarded a grant to do so.⁶⁶ Unlike other jurisdictions, the District of Columbia only requires innovative breakfast models for middle and high schools.⁶⁷ Although Delaware and Ohio do not require breakfast programs, they have adopted aspirational policies that encourage schools to provide innovative breakfast models.⁶⁸

Again, there is variation in how schools are required to implement innovative breakfast models. Many states require schools to utilize a breakfast after the bell program. These programs vary, but generally allow students to eat breakfast after the school day has begun. A number of states including Nevada, New Jersey, New Mexico, New York, and Washington all require schools to implement some form of a breakfast after the bell program.⁶⁹ Conversely, Colorado, the District of Columbia, Illinois, and Minnesota all allow schools to determine and implement their own innovative breakfast models.⁷⁰

3. Funds Provided for New Breakfast Model Start-Up/Expansion Costs

Eleven states provide funding to implement new breakfast models and/or expand existing breakfast programs. California, Connecticut, Illinois, New York, New Jersey, North Carolina, and Washington all operate grant systems to help expand school breakfast programs.⁷¹ Colorado, Kansas, Maryland (only for middle and high schools), and Nevada appropriate money to select schools or school districts every year to support breakfast programs.⁷²

Five of these states ensure that priority is given to schools with the greatest need for supplemental funding.⁷³ This funding is typically given to schools with higher rates of free and reduced-price meals served. For example, Connecticut gives funding priority to school districts with at least one severe need school.⁷⁴ Connecticut defines a severe need school



as any school that is participating or about to participate in a breakfast program, and 20% or more of the lunches served in the past 2 fiscal years were served for a free or reduced price.⁷⁵ Illinois and Nevada prioritize funding based on the percentage of students at a school who are eligible for free and reduced-price meals.⁷⁶ Illinois gives priority to school districts where 40% or more of students are eligible for free and reduced-price meals, and Nevada gives priority to schools where 70% or more of students are eligible for free and reduced-price meals.⁷⁷ Similarly, New Jersey awards priority to schools with the highest percentage of students eligible for free and reduced-price meals and the lowest participation in the school breakfast program.⁷⁸ Kansas also prioritizes the funding of breakfast programs to especially needy schools, but provides no definition as to what constitutes an especially needy school.⁷⁹

4. Universally Free Breakfast

Eight states and the District of Columbia have laws implementing universally free breakfast at schools, meaning that all students are eligible to receive a free school breakfast regardless of their family's income status.⁸⁰ This policy intervention reduces stigma and financial barriers for children receiving reduced-price or free meals, but there are still thresholds to activate the requirement as well as opt-out provisions.⁸¹ Most of these jurisdictions have a high threshold, requiring schools to offer universally free breakfast only if there is a large population of low-income students at the school.⁸² For example, Colorado requires universally free breakfast in schools where over 70% of students are eligible for free and reduced-price meals,⁸³ Florida requires universally free breakfast in schools where over 80% of students are eligible for free and reduced-price meals,⁸⁴ and New Mexico requires universally free breakfast after the bell programs if 85% or more of the enrolled students are eligible for free or reduced-price meals.⁸⁵ Sometimes states also reimburse schools for the additional cost of providing universally free meals.⁸⁶

5. Eliminated Reduced-Price Category


Eight states and the District of Columbia have laws that eliminate the reduced-price category of meals by merging it with the free meal category.⁸⁷ Eliminating the reduced-price category effectively makes free breakfast available to those students who are eligible for either free or reduced-price meals under federal guidelines. Few states have specific thresholds to activate this intervention, but at minimum schools that are required to offer breakfast and eliminate the reduced-price category will be subject to the same threshold stipulated for mandating offering breakfast in the first place.⁸⁸ For example, in Ohio, schools are required to offer breakfast if 20% or more students are eligible to receive free or reduced-price meals, and then all schools required to offer breakfast are also required to provide free breakfast to students who are eligible for reduced-price breakfast.⁸⁹ Maine is another state that eliminated the reduced-price category.⁹⁰ However, schools that only have grades nine through twelve are exempt.⁹¹ Also, Maine reimburses schools for the cost of providing free meals to students who normally qualify for reduced-price meals.⁹² Thresholds and exemptions vary under laws that eliminate the reduced-price category, and only some states reimburse the costs of eliminating the category.⁹³

6. Additional Per-Meal Reimbursement

Fifteen states and the District of Columbia provide additional per-meal reimbursements to schools or school districts serving breakfast to help offset the programs' cost.⁹⁴ However, the meals that these jurisdictions reimburse, the amount of reimbursement, and the methods of reimbursement vary.

A. Qualifying Meals

i. All Meals



Most jurisdictions simply provide additional reimbursement for every breakfast served - full price, reduced-price, and free meals. Jurisdictions that reimburse all breakfasts served include the District of Columbia, Illinois, Massachusetts, Minnesota, New Hampshire, and Pennsylvania.⁹⁵

ii. Free and Reduced-Price Meals Only

Conversely, California, Maine, Maryland, New Mexico, Oregon, and Vermont will only reimburse schools or school districts for each free and reduced-price breakfast served.⁹⁶ Connecticut also provides additional reimbursement for free and reduced-price breakfasts.⁹⁷ However, Connecticut only provides this supplement to designated “severe need” schools, which are schools that have served over 20% free and reduced-price lunches in the last two fiscal years.⁹⁸

B. Method of Reimbursement

i. Automatic

Just as there are a number of manners in which schools and school districts qualify for supplemental per-meal reimbursements, there are a number of different ways in which schools and school districts receive these reimbursements. The vast majority of states provide for reimbursements to be disbursed directly to the eligible schools.⁹⁹ This funding is generally provided by a statutorily mandated appropriation in the state budget.¹⁰⁰ New Mexico and Rhode Island are unique in that the reimbursement first goes to the applicable school districts, who then divide the funds amongst their schools.¹⁰¹

ii. Grants

Some states do not provide an annual appropriation for reimbursement, but allow schools or school districts to apply for grants for supplemental funding. For example, California does not automatically reimburse schools on a per-meal basis. In order for an eligible school in California to be reimbursed, it must apply for a grant that would reimburse the school ten cents for every breakfast served at the school.¹⁰² Similarly, Missouri allows for “hardship grants” to schools with high percentages of students eligible for free and reduced-price meals.¹⁰³

C. Amount of Reimbursement

Ten cents is the most common reimbursement value and is currently used in Connecticut, Illinois, Massachusetts, Pennsylvania, and the District of Columbia.¹⁰⁴ Additionally, California allows schools to apply for a grant that would reimburse the recipient schools with ten cents per breakfast served.¹⁰⁵ Other states refund at various amounts per breakfast served.¹⁰⁶ While New Hampshire refunds three cents per breakfast served, Nebraska refunds five cents per breakfast served, and Wisconsin refunds fifteen cents per breakfast served.¹⁰⁷ Minnesota staggers the refund by grade and whether the breakfast was purchased for a free or reduced-price or full price.¹⁰⁸ Minnesota refunds thirty cents for every free or reduced-price meal served and fifty-five cents for each fully paid meal in grades 1 to 12 and refunds \$1.30 for all fully paid meals in pre-kindergarten and kindergarten.¹⁰⁹ Breakfast must be made available at no cost to all prekindergarten and kindergarten students in Minnesota.¹¹⁰ This is why Minnesota provides a higher reimbursement to schools for fully paid meals in this age group. Minnesota is offsetting the loss of funds that normally comes from these students.

Some states reimburse schools to completely cover the costs of free and reduced-price meals. California subsidizes all free and reduced-price breakfasts served to bring those costs to the average statewide cost of breakfasts paid for in the state.¹¹¹ Maryland covers the student share of reduced-price meals for school breakfast programs in eligible middle and high schools.¹¹²



Conclusion

The school breakfast gap presents a significant public health challenge. Low-income school students are missing the opportunity to start their day with a healthy breakfast. This negatively impacts their academic outcomes, mental and emotional development, and health status. The school breakfast gap causes these short-term harms, but it also has long-term repercussions on children and their communities. In order to address this challenge, states have enacted various laws to increase access to school breakfast. These state interventions reduce the logistical, social, and financial barriers low-income children face in accessing school breakfast and help combat child hunger.

If you would like to learn about the legal interventions implemented in your state, [view our 50-State Survey](#).

SUPPORTERS

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¹ *No Kid Hungry Starts with Breakfast*, NO KID HUNGRY 3, <http://bestpractices.nokidhungry.org/sites/default/files/download-resource/No%20Kid%20Hungry%20Starts%20with%20Breakfast.pdf> (last visited Apr. 18, 2019).

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³ *Id.* at 2.

⁴ JACK P. SHONKOFF & DEBORAH A. PHILLIPS, FROM NEURONS TO NEIGHBORHOODS, THE SCIENCE OF EARLY DEVELOPMENT 204 (2000); John Cook & Karen Jeng, Child Food Insecurity: The Economic Impact on Our Nation, FEEDING AMERICA 2 (2009); Sandra Garcia, Anne Haddix, Kevin Barnett, Incremental Health Costs Associated With Food Insecurity and Chronic Illness Among Older Adults, CDC (Aug. 30, 2018), https://www.cdc.gov/pcd/issues/2018/18_0058.htm.

⁵ Richard B. Russel National School Lunch Act, 42 U.S.C. § 1751 (2012).

⁶ Child Nutrition Act, 42 U.S.C. § 1773 (2012).

⁷ CONG. RESEARCH SERV., R43783, SCHOOL MEALS PROGRAMS AND OTHER USDA CHILD NUTRITION PROGRAMS: A PRIMER, <https://fas.org/sgp/crs/misc/R43783.pdf> (last updated Feb. 11, 2019).

⁸ *Id.* at 5.

⁹ *Id.* at 8.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 3.

¹⁴ *Id.*

¹⁵ *Id.* at 1.

¹⁶ *Id.* at 10.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 18.

²¹ *Id.* at 5.

²² *Id.* at 1.

²³ *Id.* at 8.

²⁴ *Id.* at 1.

²⁵ National School Lunch, Special Milk, and School Breakfast Programs, National Average Payments/Maximum Reimbursement Rates, 83 Fed. Reg. 34,105, 34,107 (July 19, 2018), <https://www.govinfo.gov/content/pkg/FR-2018-07-19/pdf/2018-15465.pdf>.

²⁶ Child Nutrition Act, 42 U.S.C. § 1773 (2012).

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²⁸ *No Kid Hungry Starts with Breakfast*, *supra* note 1, at 3.

²⁹ *Id.*

- 30 *Id.*
- 31 CONG. RESEARCH SERV., *supra* note 7, at 18.
- 32 *Id.*
- 33 *Id.* at 5–6, 16. *See id.* at 16 (stating that “[o]f the participating students, 66.7% (20.0 million) received free lunches and 6.5% (2.0 million) received reduced-price lunches.”).
- 34 *Id.* at 5–6, 18.
- 35 *Effective Policies for Increasing Participation in School Breakfast Programs*, NO KID HUNGRY 2, <http://bestpractices.nokidhungry.org/sites/default/files/download-resource/Effective%20Policies%20for%20Increasing%20Participation%20in%20School%20Breakfast.pdf> (last visited Apr. 18, 2019).
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- ¹⁰⁰ *See e.g.*, CONN. GEN. STAT. § 10-266w (2011); ILL. COMP. STAT. 125/2.5 (2015); MD. CODE ANN., EDUC. § 7-703 (2018); ME. REV. STAT. ANN. TIT. 20-A, § 6602 (2015).
- ¹⁰¹ N.M. STAT. ANN. § 22-13-13.2 (2016); 16 R.I. GEN. LAWS §16-8-10.1 (2005).
- ¹⁰² CAL. EDUC. CODE § 49565.1 (2005).
- ¹⁰³ MO. REV. STAT. § 191.805 (1992).
- ¹⁰⁴ Kasia Foster and Kirby McMahon, *Summary of State Laws Addressing the School Breakfast Gap*, The Network for Public Health Law, https://www.networkforphl.org/resources_collection/2019/05/23/1141/50-state_survey_of_state_laws_addressing_the_school_breakfast_gap.
- ¹⁰⁵ CAL. EDUC. CODE § 49565.1 (2005).
- ¹⁰⁶ *Id.*
- ¹⁰⁷ N.H. REV. STAT. ANN. § 189:11-a (2016); NEB. REV. STAT. ANN. § 79-10,138 (2007); WIS. STAT. §115.341 (2010).
- ¹⁰⁸ MINN. STAT. ANN. § 124D.1158 (2016).
- ¹⁰⁹ *Id.*
- ¹¹⁰ *Id.*
- ¹¹¹ CAL. EDUC. CODE § 41350 (2007); CAL. EDUC. CODE § 49536 (2013).
- ¹¹² MD. CODE ANN., EDUC. § 7-703 (2018).