

HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 2

EDUCATION

PART 1

PUBLIC SCHOOL

CHAPTER 37

SCHOOL LUNCH PROGRAM

Historical Note: This chapter is based substantially upon Department of Education "Rule 20, Relating to the School Lunch Program." [Eff. 2/7/64; ren §§8-37-1 to 8-37-17; 11/2/1981; R 11/2/1981]

§8-37-1 Purposes. A school lunch program shall be provided in the public schools for the purposes of providing students with a nutritious meal at a minimum cost, providing learning experiences, and establishing desirable food habits. [Eff. 11/2/81; comp 8/28/95] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1112, 302A-404, 302A-405)

§8-37-2 Participation in federal programs. The public schools shall participate in the benefits of the National School Lunch Program, School Breakfast Program, and the Commodity Program to the extent possible and in so doing shall cooperate with the state office in maintaining standards, complying with regulations, and submitting required reports and information. [Eff. 11/2/81; am 11/28/83; comp 8/28/95] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1112, 302A-404, 302A-405; 42 U.S.C. 1772, 1779, 7 C.F.R. 215; 42 U.S.C. 1773, 1779, 7 C.F.R. 220; 42 U.S.C. 1772, 1773, 1779, 7 C.F.R. 245; 43 U.S.C. 1751-60, 7 C.F.R. 245)

§8-37-3 Meal price. The price of meals shall be established by the superintendent of education upon approval of the board and in accordance with state and federal laws and regulations. [Eff. 11/2/81; am and comp 8/28/95; am and comp 6/15/09] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112, 302A-404, 302A-405)

§8-37-4 Eligibility. (a) Eligibility for free or reduced priced meals shall be determined by the department in accordance with the requirements set forth in the Code of Federal Regulations, title 7, part 245, "Determining Eligibility for Free and Reduced Price Meals and Free Milk."

(b) Prior to the beginning of school, or during the first week of school, the department shall disseminate information and applications for free or reduced price meals as follows:

(1) A public release shall be provided to the local news media, the unemployment office, and to any major employers contemplating large layoffs in the area from which the school draws its attendance. The public release shall contain the same information provided to households under paragraph (2).

(2) The department shall distribute letters to the households of all enrolled students to inform them that they may apply for free or reduced priced meals. The letter shall contain the following:

(A) The reduced price eligibility criteria and an explanation that households with income at or below the reduced price criteria would be eligible for either free or reduced price meals.

(B) An explanation of how and where to apply for free or reduced price meals.

(C) An explanation of the information that is needed before consideration can be given to an application.

(D) An explanation that the information on the application is subject to verification during the school year.

(E) A statement that recipients must notify the department during the school year of any increase in income of over \$50

per month or of \$600 a year, or such other amounts as the relevant federal programs shall require, or of any decrease in household size.

(F) A statement that a household may apply for benefits at any time during the school year as its family income circumstances change.

(G) A statement that children having parents or guardians who become unemployed are eligible for benefits, provided that the loss of income causes household income to be within the eligibility criteria.

(H) A statement that, in certain cases, foster children are eligible for benefits regardless of the income of the household with whom they reside.

(I) The statement: "In the operation of the child feeding programs, no child will be discriminated against because of race, sex, color, national origin, age or handicap."

(J) A statement that the decision of the department with respect to the application may be appealed.

(K) A statement that an application is attached. [Eff. 11/28/83; comp and ren §8-37-3.1 8/28/95; am and comp 6/15/09] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1112; 42 U.S.C.1772, 1773, 1779, 7 C.F.R. 245; 43 U.S.C. 1751-60, 7 C.F.R. 245)

§8-37-5 Application for free or reduced price meals. (a) The information requested by the department shall be limited to that needed to determine whether a household meets the eligibility criteria for free or reduced price meals and shall provide such information as the relevant federal programs shall require.

(b) Applications shall be distributed to each household and completed and returned to the school office. The superintendent of education or authorized designee shall review and approve applications.

(c) The department shall inform the applicant by letter of the action taken on the application. The letter shall:

(1) State whether the application has been approved for free meals, reduced price meals, or whether application has been denied.

(2) Explain the reason for not qualifying if the application is not approved and inform the applicant of:

(A) The right to discuss the matter with a representative of the department designated by the superintendent.

(B) The right to an impartial hearing which can be arranged by the hearing officer. The request for a hearing shall be made within ten days of the notice of disapproval.

(C) The name, address and phone number of the hearing officer. [Eff. 11/28/83; comp and ren §8-37-3.2 8/28/95; am and comp 6/15/09] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112; 42 U.S.C. 1772, 1773, 1779, 7 C.F.R. 245; 43 U.S.C.1751-60, 7 C.F.R. 245)

§8-37-6 Verification of eligibility. (a) As used in this chapter, "verification" means confirmation of eligibility for free or reduced price benefits under the school lunch program. At a minimum, verification shall include confirmation of income eligibility. Verification shall be conducted in accordance with the requirements of the relevant federal program. Verification efforts shall not delay the initial approval of applications. An application shall be approved if it contains the minimum documentation required by the relevant federal program and meets the income eligibility criteria for free or reduced price benefits.

(b) Households selected for verification shall be informed of the following:

(1) They have been selected for verification;

(2) They are required to submit the required verification information to confirm eligibility for free or reduced price benefits;

(3) The types of information or documents acceptable to the department and the name and phone number of a school official who can assist in the verification effort;

(4) They may submit proof of current eligibility for food stamp benefits in lieu of income information if they are participating in the food stamp program; and

(5) Failure to cooperate with verification efforts will result in termination of benefits.

(c) The verification effort shall be applied without regard to race, sex, color, national origin, age, or disability.

(d) The department shall reduce or terminate benefits if its verification efforts fail to confirm eligibility for free or reduced price benefits or the household fails to cooperate with the department's verification efforts.

(e) The household shall be notified in writing of the reduction or termination of benefits ten days prior to the actual reduction or termination of benefits. The day the notice is sent shall be the first day of the notice period. The notice shall advise the household of:

(1) The change;

(2) The reasons for the change;

(3) The right to appeal and that the appeal must be filed within the ten day advance notice period to ensure continued benefits while awaiting a hearing and decision;

(4) How to appeal; and

(5) The right to reapply at any time during the school year.
[Eff. 11/28/83; am, comp and ren §8-37-3.3 8/28/95; am and comp 6/15/09] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1112; 42 U.S.C. 1772, 1773, 1779, 7 C.F.R. 245; 43 U.S.C.1751-60, 7 C.F.R. 245)

§8-37-7 Hearing of appeals. (a) Upon an oral or written request for a hearing, the department shall schedule the hearing with reasonable promptness and convenience. The department shall provide adequate notice with respect to the time and place of the hearing.

(b) The hearing shall be conducted in the following manner:

(1) The applicant may be assisted by an attorney or other person;

(2) The applicant shall be given an opportunity, before and during the hearing, to examine documents and records presented to support the decision being appealed;

(3) The applicant shall be given an opportunity to present oral or documentary evidence and argument supporting the appeal;

(4) The applicant shall be given an opportunity to question or refute any testimony or other evidence and to cross-examine any adverse witnesses;

(5) The hearing shall be conducted and decision made by an official who did not participate in the decision being appealed or in any previous conference;

(6) The decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made part of the hearing record;

(7) The parties involved, including any designated representative, shall be notified in writing of the decision of the hearing official; and

(8) A written record shall be maintained for each hearing which shall include:

(A) The decision under appeal;

(B) The documentary evidence presented;

(C) A summary of any oral testimony presented at the hearing;

(D) The decision of the hearing officer and the reasons for the decision; and

(E) A copy of the notification to the parties involved of the hearing official's decision.

(c) The written record of the hearing shall be preserved for three years and shall be available for examination by parties concerned or their representatives at any reasonable time and place during the period.

(d) When a household appeals an adverse action that affects its benefits and requests an impartial hearing, benefits shall be continued while the household awaits the hearing and decision:

(1) Households that have been approved for benefits and that are subject to a reduction or termination of benefits later in the same school year shall receive continued benefits if they appeal the action within the ten advance notice period.

(2) Households that are denied benefits upon application shall not receive benefits. [Eff. 11/28/83; comp and ren §8-37-3.4 8/28/95] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112; 42 U.S.C. 1772, 1773, 1779, 7 C.F.R. 245; 43 U.S.C. 1751-60, 7 C.F.R. 245)

§8-37-8 Persons to be served. Persons to be served by the school cafeteria are students, teachers, and other members of the school staff, as well as district and state office personnel and board of education members when they are at the school on official business, and persons who are guests of the school. Any exception shall be cleared in advance with the complex area superintendent. [Eff. 11/2/81; comp and ren §8-37-4 8/28/95; am and comp 6/15/09] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-37-9 Competing with private businesses. School cafeterias shall not operate so as to compete with private businesses by catering to non-school persons or organizations. They are not to solicit or accept orders for food from school when such food is to be taken from the school for non-school use. Community colleges are exempted for essential training purposes as approved by their respective advisory committees. [Eff. 11/2/81; comp and ren §8-37-5 8/28/95] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-37-10 Use of student help in the cafeteria. Students shall assist in the cafeteria as part of their duties in school services. Not more than one full day of cafeteria duty in any one month or more than a total of seven full days in one school year shall be required of any student. Any exception must be approved by the complex area superintendent. [Eff. 11/2/81; comp and ren §8-37-6 8/28/95; am and comp 6/15/09] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§§8-37-11-17 Reserved.

