



## PROPOSED RULE: Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools

U.S. Department of Agriculture’s Food and Nutrition Service, Child Nutrition Programs published a proposed rule in the Federal Register on March 23, 2023, with the intent to expand access to the Community Eligibility Provision (CEP) by lowering the minimum identified student percentage (ISP)<sup>1</sup> participation threshold from 40 percent to 25 percent. The rule gives more high-need schools the option to elect CEP and offer all students healthy school meals at no cost when it is financially viable for them to do so.

### CEP Benefits

CEP allows schools to offer breakfast and lunch each school day at no cost to all students. CEP also eliminates unpaid meal charges, minimizes stigma, reduces paperwork for school nutrition staff and families, and streamlines meal service operations.

### Proposed Changes to CEP

| Provision<br>(Current regulatory citation)                                                                                | Current ISP Threshold                                                                                                                                                                                                          | Proposed ISP Threshold                                                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Minimum ISP Threshold</b><br>(7 CFR 245.9(f)(3)(i))                                                                    | School districts, schools, and groups of schools must have an ISP of <b>40 percent or higher</b> to elect CEP.                                                                                                                 | School districts, schools, and groups of schools would be required to have an ISP of <b>25 percent or higher</b> to elect CEP.                                                                                                                 |
| <b>Grace Year Eligibility</b><br>(7 CFR 245.9(f)(4)(ix))                                                                  | Schools participating in CEP must have an ISP of <b>less than 40 percent but equal to or greater than 30 percent</b> in year 4 of the CEP cycle to elect CEP for a fifth year, or grace year.<br>( $30 \leq \text{ISP} < 40$ ) | Schools participating in CEP would be required to have an ISP of <b>less than 25 percent but equal to or greater than 15 percent</b> in year 4 of the CEP cycle to elect CEP for a fifth year, or grace year.<br>( $15 \leq \text{ISP} < 25$ ) |
| <b>Identification, Notification, and Publication of <i>Eligible</i> LEAs and Schools</b><br>(7 CFR 245.9(f)(5), (6), (7)) | Eligible schools have ISPs of <b>40 percent or higher</b>                                                                                                                                                                      | Eligible schools would have ISPs of <b>25 percent or higher</b>                                                                                                                                                                                |
| <b>Identification, Notification and Publication of Nearly Eligible LEAs and Schools</b><br>(7 CFR 245.9(f)(5), (6), (7))  | Nearly eligible schools have ISPs of <b>less than 40 percent but equal to or greater than 30 percent</b> .<br>( $30 \leq \text{ISP} < 40$ )                                                                                    | Nearly eligible schools would have ISPs of <b>less than 25 percent but equal to or greater than 15 percent</b> .<br>( $15 \leq \text{ISP} < 25$ )                                                                                              |

<sup>1</sup> “Identified students” are students who are certified for free meals without a household application. The “identified student percentage” (ISP) is calculated by dividing the total number of identified students by the total number of enrolled students (See 7 CFR 245.9(f)(1)(ii) and (iii)).

## **Public Comments**

USDA invites interested persons to submit written comments on the proposed rule through May 8, 2023. Comments may be submitted in writing via the Federal eRulemaking Portal at <http://www.regulations.gov>, which has online instructions for submitting comments.

Specifically, USDA is seeking public comments on the proposed change to lower the CEP threshold from 40 to 25 percent and the following five questions:

- (1) To what extent are LEAs that would be newly eligible under this proposed rule expected to elect CEP?
- (2) What sources of non-Federal funds are available to support LEAs electing CEP at lower ISPs?
- (3) In a typical year, how much time do LEAs spend on administrative duties that may be eliminated by electing CEP (e.g., processing applications, managing unpaid meal charges, conducting verification)? What administrative activities are included in that estimate?
- (4) To what extent are administrative cost savings a factor in determining whether to elect CEP?
- (5) How do State policies related to offering free school meals for all students influence the likelihood of CEP election among newly eligible LEAs?

For complete information, the proposed rule is available at [www.regulations.gov](http://www.regulations.gov).