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| <p>Subject: Food and Nutrition Programs—Meal Availability for all enrolled students</p> <p>Issued: March 27, 2024</p> | <p>Legal Reference—RSA 189:11-a, Ed 306.11</p> |
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This Technical Advisory is to provide guidance on meal availability pursuant to RSA 189:11-a.

The Department is issuing this Technical Advisory to ensure that districts are aware of their obligation to provide one meal for each student, including kindergarten and pre-kindergarten students pursuant to RSA 189:11-a.

RSA 189:11-a, I-II requires that each school must make a meal available during school hours to every student under its jurisdiction. The legislative goal of this requirement is to support student well-being and create an environment where hunger doesn’t hinder a child’s ability to learn.

- RSA 189:11-a, and supporting administrative rules, Ed 306.11(a)(1), require that each school board make at least one meal — breakfast or lunch —available during school hours to all enrolled students in the district.
- The school board is also required to have a meal payment policy that ensures all students have “access to a healthy school lunch” and, communicate the policies to parents and ensure that all students receive equal treatment in the lunchroom (RSA 189:11-a, VIII). This meal program is not optional.
- School boards must ensure that the districts provide at least one meal to students, whether that meal is breakfast or lunch is at the discretion of the school board.
- The law permits a school board to elect to make both breakfast and lunch available to students. Note, that if the school elects to serve breakfast, the meal must be provided during school hours and, pursuant to RSA 306.11(d), students must be provided with adequate time to consume the meal.

Access RSA 189:11-a in its entirety [here](#).

Access Ed. 305.11 Food and Nutrition Services [here](#).

Applicability of RSA 189:11-a:

The obligation to ensure that one meal is provided to students, is not limited by grade or full day enrollment. RSA 189:11-a is equally applicable to kindergarten and pre-kindergarten programs whether these programs are full day or half day programs. For example, for a school district that is operating a half-day kindergarten program, the district is required to provide one meal to these students. The morning program could be provided breakfast, and the afternoon program could be provided lunch or both programs could be provided lunch — as long as the district is providing the required one meal to all enrolled students.

There have been instances in which a school district's food service program is available for grades 1 through 12, but not available to the kindergarten and pre-kindergarten program. That is not compliant with the law, as a meal must be made available to all students.

Waiver:

As stated in RSA 189:11-a, "The school board of any school may make application for a waiver to the state board. Requests for such waiver may be granted by the commissioner of education upon the receipt of such application and shall remain in force until the state board determines otherwise as hereinafter provided. The state board is authorized and directed to study the schools which have been granted a waiver and to formulate a plan to implement the requirements of this section in such schools. The state board shall, after formulating such a plan, notify the school board granted such a waiver of the date when said waiver will terminate. After the termination of a waiver, a school board shall comply with the requirements of RSA 189:11-a, I. The state board may also grant a waiver to any school which is being phased out of use; however, such waiver may not exceed the period of one school year."

If a school board identifies that they are unable to meet the requirements listed in section I of RSA 189:11-a then a waiver request as outlined above must be made to the state board of education. The commissioner of education, upon receipt of the application for a waiver, may grant such request until the state board makes a final determination regarding the applicability and length of the waiver. The state board must formulate a plan with the school board to implement the requirements of RSA 189:11-a and provide students with a meal. After termination of the waiver, the school board shall comply with the requirements of RSA 189:11-a, I.

For questions related to this Technical Advisory, please contact:

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