

CHAPTER 69
WAIVER OF SCHOOL BREAKFAST PROGRAM REQUIREMENT

DIVISION I

281—69.1(283A) General statement. Applications for waiver of the requirement that all school districts shall operate or provide for the operation of school breakfast programs at all public schools in each district effective July 1, 1999, until July 1, 2000, are subject to approval by the state board of education as provided in Iowa Code section 283A.2(3).

281—69.2(283A) Definitions. For purposes of clarity, the following definitions are used throughout this chapter:

“*Department*” means the state department of education.

“*Nutritionally adequate meal*” means a lunch or breakfast which meets the minimum criteria for eligibility for federal reimbursement under the federal National School Lunch Act of 1946 and the federal Child Nutrition Act of 1966.

“*School*” means a public school of high school grade or under.

“*School board*” means a board of school directors regularly elected by the registered voters of a school corporation or district of the state of Iowa.

“*School breakfast or lunch program*” means a program under which breakfasts or lunches are served by any public school in the state of Iowa on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.

281—69.3(283A) Institutions impacted. Iowa Code section 283A.2 states that all public school districts shall operate or provide for the operation of school breakfast programs at all public schools in each district beginning with the July 1, 1999, school year unless the state board of education has granted a waiver. Under Iowa Code section 283A.2(3), waivers are only available for the 1999-2000 school year.

281—69.4(283A) Criteria for applying for a waiver. Each school or school district unable to meet the requirement to provide a school breakfast program may file, not later than June 1, 1999, for the school year beginning July 1, 1999, on forms provided by the department, a written request to the state board of education for a waiver of the breakfast program requirement for the school or school district.

The written request for waiver shall be made by the school district for the entire district or for one or more schools within the district. The waiver request shall include the following components:

1. The name(s) of the school or school district applying for the waiver, agreement number, contact person, and telephone number.
2. The reason(s) for which the waiver is being requested and corresponding documentation.
3. The percentage of students in attendance at the school during the month of March 1999 who were eligible for free or reduced price meals.
4. Signatures of the president of the local school board, the school food authority, and the superintendent.

281—69.5(283A) Approval of waiver applications. The department shall receive all requests for waiver of the breakfast program requirement. The department will evaluate the requests and make recommendation for approval or denial based on the criteria established by the state board of education. The state board of education will approve or deny all waiver requests. The criteria for evaluating the waiver request shall include the following:

1. Required components including sufficient detail to justify the reason for the waiver request.
2. Documentation that less than 35 percent of the students in attendance at the school during the month of March 1999 were eligible for free or reduced price meals under the federal National School Lunch Act of 1946 and the federal Child Nutrition Act of 1966.
3. A valid reason for requesting a waiver:
 - A breakfast program was implemented in this facility during the 1997-98 or 1998-99 school year and participation was less than 15 percent of enrollment, or
 - A survey was conducted of all households in the school's attendance area within the past year and less than 25 percent expressed interest in participating in a breakfast program, or
 - The district school food service program is operating with a negative balance, or
 - A breakfast program is offered to all students in the district although a breakfast program is not available in all school buildings, or
 - Any other circumstance as determined by the state board that warrants the granting of the waiver request.

281—69.6(283A) Notification. The department will notify school districts if the request for waiver of the school breakfast program requirement for the school year beginning July 1, 1999, has been approved or denied. The notification will be mailed within ten working days of the decision by the state board of education.

281—69.7(283A) Schools granted a waiver from the school breakfast program requirement. School districts granted a waiver for the school year beginning July 1, 1999, shall be required to file a plan for implementing the required breakfast program for the following school year. The written plan shall be on file with the department no later than May 31, 2000.

281—69.8(283A) Appeal of waiver denial. A decision by the state board of education to deny a waiver is final. Any applicant may appeal the denial of a properly submitted waiver application to district court under the provisions of Iowa Code chapter 17A.

These rules are intended to implement Iowa Code section 283A.2.

281—69.9 and 69.10 Reserved.

DIVISION II
ACCESS TO A SCHOOL BREAKFAST PROGRAM
(Effective July 1, 2000)

281—69.11(78GA,ch147) General statement. Effective July 1, 2000, a school district shall operate or provide for the operation of a school breakfast program at all attendance centers in the district or provide access to a school breakfast program at an alternative site if the district meets the criteria established in 69.14(78GA,ch147).

281—69.12(78GA,ch147) Definitions. The following definitions are used in these rules:

“*Attendance center*” means a public school of high school grade or under.

“*Department*” means the state department of education.

“*Nutritionally adequate breakfast*” means a meal which meets the minimum criteria for eligibility for federal reimbursement under the federal National School Lunch Act of 1946 and the federal Child Nutrition Act of 1966.

“*School board*” means a board of school directors regularly elected by the registered voters of a school corporation or district of the state of Iowa.

“*School breakfast program*” means a program under which breakfasts are served by any public school in the state of Iowa on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.

281—69.13(78GA,ch147) Institutions impacted. Iowa Code section 283A.2 as amended by 1999 Iowa Acts, chapter 147, states that a school district shall operate or provide for the operation of school breakfast programs serving nutritionally adequate breakfasts at all attendance centers in the district. However, a school district that meets the requirements of rules 69.14(78GA,ch147) through 69.16(78GA,ch147) may provide access to a school breakfast program at an alternative site to students who wish to participate in a school breakfast program.

281—69.14(78GA,ch147) Criteria for a plan to provide safe, reasonable student access to a school breakfast program. A school board that wishes to provide safe, reasonable student access to a school breakfast program, rather than operate or provide for the operation of a school breakfast program at a specific attendance center within the district shall develop an alternative site plan to operate the school breakfast program at another attendance center within the school district and shall annually certify to the department that the plan meets the following criteria:

1. Provides safe travel routes to and from the alternative breakfast site for all eligible students.
2. Minimizes student travel time between the student’s attendance center and the alternative breakfast site.
3. Provides for a reasonable relationship between the time breakfast is offered, the time the student is required to arrive at the attendance center and alternative site, and the daily school start time.
4. Provides an alternative breakfast site facility adequate for the number of students participating in the breakfast program.

281—69.15(78GA,ch147) Notification requirements. The school board that wishes to provide access to a school breakfast program in accordance with this provision shall notify the parent, guardian, or legal or actual custodian of a child enrolled in the school district of the school district’s intention to develop and implement a plan to provide school breakfast programs only in certain attendance centers. At any time in which the school district proposes to make substantive changes to a plan certified with the department, the notification requirements of this rule shall apply.

281—69.16(78GA,ch147) Certification requirements. The school board shall annually certify to the department that the plan meets the criteria outlined in rule 69.14(78GA,ch147). The certification shall be submitted to the department of education, on forms provided, not later than May 1 each year for the school year beginning July 1. Any changes to the plan requiring a new notification must be certified with the department within 30 days of adoption of the new plan.

These rules are intended to implement 1999 Iowa Acts, chapter 147.

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