

**ADOPTED REGULATION OF THE
STATE DEPARTMENT OF AGRICULTURE**

LCB File No. R082-15

Effective June 21, 2017

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1 and 2, NRS 387.1175; §3, NRS 387.1155 and 387.1175.

A REGULATION relating to education; providing procedures for certain public schools to request to opt out of participation in the Breakfast After the Bell Program; providing procedures for certain public schools to request a waiver for the purpose of participating in the Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain public schools to participate in the Breakfast After the Bell Program, which provides breakfast to pupils after the instructional day has officially begun, unless a school has submitted to the State Department of Agriculture a request not to participate, along with certain information. (NRS 387.1145) **Section 2** of this regulation sets forth the information a public school must submit to the Department to be allowed to opt out of participation in the Program. **Section 3** of this regulation provides a procedure whereby a public school that is not required to participate in the Program may request a waiver to be allowed to participate.

Section 1. Chapter 387 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *Except as otherwise provided in subsection 2, a public school which is required by subsection 2 of NRS 387.1145 to participate in the Breakfast After the Bell Program but which is seeking to opt out of participating in the Program pursuant to subsection 3 of NRS 387.1145 must submit to the State Department of Agriculture a request to opt out of participating in the Program, accompanied by the following information for each of*

the 2 school years immediately preceding the school year for which the public school is seeking to opt out of participating in the Program:

(a) The number of enrolled pupils in the school and the number of pupils eligible for free and reduced-price lunches under the National School Lunch Act, 42 U.S.C. §§ 1751 et seq., as of October 31 of the school year; or

(b) The percentage of pupils eligible for free or reduced-price lunches under the National School Lunch Act, 42 U.S.C. §§ 1751 et seq., who participated in the Program and the total cost to the public school or school district for the food and labor used in the Program at that public school.

2. If the State Department of Agriculture determines that sufficient money is not available to fund a public school's participation in the Program pursuant to NRS 387.1155, that public school is not required to participate in the Program.

Sec. 3. *A public school which is not required by NRS 387.1145 to participate in the Breakfast After the Bell Program but which is seeking a waiver for the purpose of participating in the Program pursuant to subsection 3 of NRS 387.1155 must submit to the State Department of Agriculture a grant application to participate in the Program. The grant application must be made on the form made available by the Department on its Internet website at <https://breakfast.nv.gov>.*

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R082-15

1. A clear and concise explanation of the need for the adopted regulation.

This regulation change is needed to allow school districts flexibility in operating the Breakfast After the Bell program.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the subject of Breakfast After the Bell, as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Nevada Department of Agriculture (NDA) www.agri.nv.gov, mailed to all county libraries in Nevada and posted at the following locations:

Nevada Department of Agriculture
405 South 21st Street
Sparks, NV 89431-5566

Nevada Department of Agriculture
2150 Frazer Avenue
Sparks, NV 89431

Nevada Department of Agriculture
2300 E. St Louis Avenue
Las Vegas, NV 89104-4314

Nevada Department of Agriculture
4780 E. Idaho Street
Elko, NV 89801-4672

Interested persons may obtain a copy of the summary by contacting:

Nevada Department of Agriculture
Attn: Donnell Barton
405 South 21st Street
Sparks, NV 89431

Nevada Department of Agriculture held a workshop on September 10, 2015, there was no one in attendance or testified. Nevada Department of Agriculture held a Hearing on November 18, 2015, there was no one in attendance or testified.

3. The number of persons who:

- (a) Attended each hearing: 0**
- (b) Testified at each hearing: 0**
- (c) Submitted written comments: 0**

Workshop date: September 10, 2015
Number in attendance: 0
Number testifying: 0
Written statements submitted: 0

Hearing date: November 18, 2015
Number in attendance: 0
Number testifying: 0
Written statements submitted: 0

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**
- (a) **Name;**
 - (b) **Telephone number;**
 - (c) **Business address;**
 - (d) **Business telephone number;**
 - (e) **Electronic mail address; and**
 - (f) **Name of entity or organization represented.**

No one attended workshop or hearing, no information provided.

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

Only public schools would be affected by the regulation and no businesses would be affected.

Interested persons may obtain a copy of the summary by contacting:

Nevada Department of Agriculture
Attn: Donnell Barton, Administrator Food and Nutrition Division
405 South 21st Street
Sparks, NV 89431

6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

No changes were requested.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

- (a) **Estimated economic effect on the businesses which they are to regulate.**

No adverse impact or benefit on businesses.

- (b) **Estimated economic effect on the public which they are to regulate.**

No adverse impact or benefit for public.

8. The estimated cost to the agency for enforcement of the proposed regulation:

There is no cost to the agency.

9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

No overlaps or duplication.

10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

Not more stringent. Does not apply.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

No change in fees.