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SUMMARY

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Serving Free School Meals through the Community Eligibility Provision (CEP): Background and Participation

The Community Eligibility Provision (CEP) is an option within the National School Lunch Program (NSLP) and School Breakfast Program (SBP) that is designed to enable high-poverty schools to serve free meals to all students without collecting household applications. Since the provision's implementation nationwide, the number of CEP schools has more than doubled: from over 14,200 in school year (SY) 2014-2015 to just over 28,700 in SY2018-2019. CEP schools now comprise approximately 30% of all NSLP schools, and nearly 13.7 million students nationwide attend a CEP school.

CEP was authorized by the Healthy, Hunger-Free Kids Act of 2010 (P.L. 111-296), the most recent child nutrition reauthorization act. The provision was intended to increase access to and participation in free school meals, reduce paperwork for schools and families by eliminating applications for meals, and remove stigmas that free- and reduced-price meal recipients may face in the cafeteria.

CEP is available to schools, groups of schools, and school districts that participate in NSLP and SBP and have an identified student percentage (ISP) of at least 40%. The ISP is the percentage of students who are certified under categorical eligibility rules for free school meals without a household application, primarily through direct certification with the Supplemental Nutrition Assistance Program (SNAP). Each year, school districts are given the opportunity to opt in to CEP on behalf of eligible schools.

Schools that participate in CEP receive an alternative federal reimbursement formula. Under the traditional NSLP/SBP formula, schools receive different reimbursement rates for free, reduced-price, and paid (full-price) meals (for lunch, up to $3.65, $3.25, and $0.47 per lunch respectively in SY2019-2020). Under CEP, schools receive the free reimbursement rate for a percentage of meals (calculated by multiplying the school's ISP by 1.6) and the paid rate for the remainder of the meals they serve. Schools may operate CEP for a period of four years before redetermining their eligibility.

There were at least 15,400 schools that were eligible but did not participate in CEP in SY2018-2019. Both the impact on students and financial considerations may impact the decision to participate in CEP. The data highlighted in this report show that schools with lower ISPs are less likely to adopt CEP. CEP participation also varies by state, and may be influenced by factors including state policies and outreach, private-sector outreach, and states' proficiencies in directly certifying children for school meals through SNAP and other pathways.

CEP is not the only way that schools can provide free meals to all students. Any school may use local or state funds (if available) to cover the cost of full-price meals and the reduced-price copay. There are also two other, less-utilized federal options that offer alternative reimbursement formulas for schools that provide free meals to all students. Provision 2 and Provision 3—options that existed prior to CEP—allow such schools to operate under simplified eligibility determination and reimbursement procedures. These options are similarly intended to reduce paperwork for schools and families and increase access to school meals.

CEP will likely be of continuing interest to Congress as a relatively new and increasingly utilized option within the federal school meals programs.

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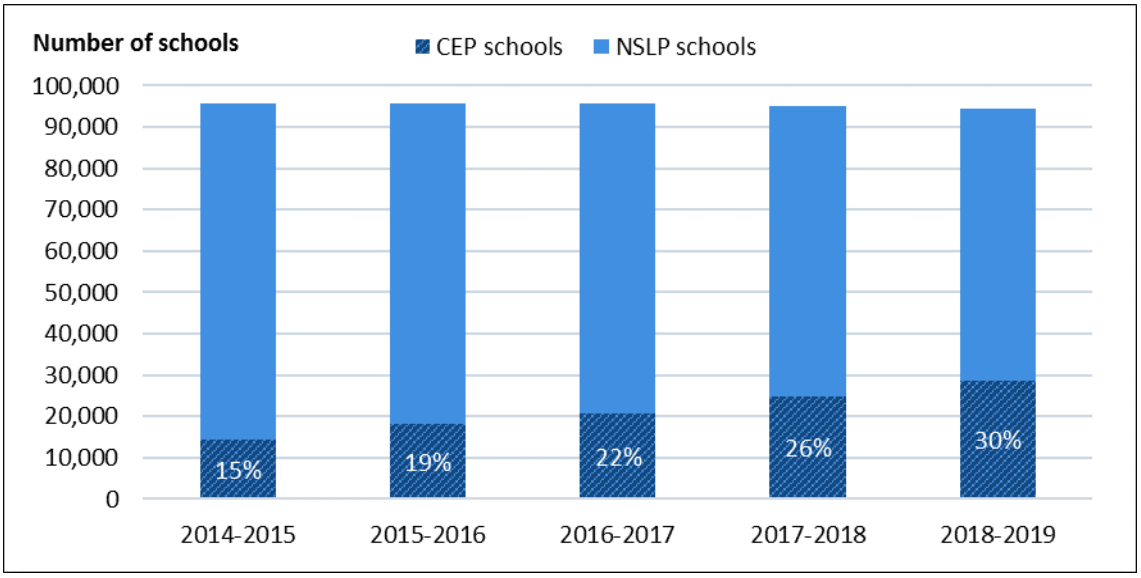
Introduction

The Community Eligibility Provision (CEP) was authorized by the Healthy, Hunger-Free Kids Act of 2010 (P.L. 111-296). CEP enables high-poverty schools participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) to eliminate household applications and operate under a revised federal funding formula if they offer free breakfasts and lunches to all students.

CEP phased in over three school years (SYs) in selected states starting in SY2011-2012, and became available nationally in SY2014-2015. Since then, the number of schools participating has more than doubled, from over 14,200 schools in SY2014-2015 to just over 28,700 schools in SY2018-2019.[1] CEP schools now represent approximately 30% of all NSLP schools (**Figure 1**).

Figure 1. CEP Participation, SY2014-2015 to SY2018-2019

CEP Schools as a Proportion of NSLP Schools



Source: CRS tabulations of the Food Research and Action Center's (FRAC's) CEP Database. Data from SY2014-2015 were compiled by the Center on Budget and Policy Priorities (CBPP). The number of NSLP schools was provided by USDA on April 3, 2020.

Notes: The number of NSLP schools is collected in October of each year and updated on an ongoing basis. The chart excludes a relatively small number of schools operating only the SBP.

CEP aims to increase access to free meals and reduce paperwork for households and schools by eliminating applications.[2] By eliminating household applications, CEP also eliminates the need for school districts to conduct a legislatively mandated annual verification of a sample of household applications. Some also view the provision as a remedy for student meal debt and so-called *lunch shaming*, a term that refers to practices schools may use when students do not pay meal fees, such as providing an alternative meal or denying a meal. CEP virtually eliminates meal

[1] CRS tabulations of Food Research and Action Center's (FRAC's) CEP Database. Data from SY2014-2015 was compiled by the Center on Budget and Policy Priorities (CBPP).

[2] U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS), "Community Eligibility Provision," available at https://www.fns.usda.gov/school-meals/community-eligibility-provision.

debt (aside from pre-existing meal debt) and lunch shaming by providing free meals to all students.[3]

P.L. 111-296 required the U.S. Department of Agriculture (USDA) to conduct an evaluation of CEP. In 2014, USDA released its study of CEP in early implementation states. The evaluation found that the provision reduced administrative burdens on households and, to a lesser extent, school districts.[4] By eliminating household applications, the evaluation also postulated that CEP may reduce errors and fraud.[5] USDA's evaluation also found that CEP increased student participation in school meals, particularly in school breakfast.[6] CEP's impact on school food service revenue was mixed. The study found that the provision increased federal funding, but it was not clear if the additional funding made up for the loss in student payments for full-price meals.[7]

CEP is not the only way to provide free meals to all students. Some school districts use local funds to cover the remaining meal costs for reduced-price and/or paid-rate meals. In addition, some states (including Colorado, the District of Columbia, Maine, Maryland, Minnesota, New Hampshire, New York, North Carolina, North Dakota, Oregon, Vermont, and Washington) cover reduced-price copays for breakfasts and/or lunches using state funding. Many other states provide state-funded reimbursements that may enable schools to remove reduced-price meal fees.[8]

Since CEP's inception, there have been proposals both to expand and scale back the provision. In 2016, during the 114th Congress, authorizing committees in the House and Senate marked up child nutrition reauthorization legislation that did not receive floor consideration. The House committee's proposal—the Improving Child Nutrition and Education Act of 2016 (H.R. 5003)—would have raised the eligibility threshold for CEP—the ISP—from 40% to 60% beginning in SY2017-2018. It also would have allowed for a grace period of one school year for schools that had been eligible for CEP but would no longer be eligible under the amended law. CBO estimated that the proposal would have resulted in 6,500 schools no longer participating in CEP and a reduction of direct spending of approximately $1.6 billion over 10 years.[9] (The Senate committee bill did not propose changes to CEP.) In the 116th Congress, several introduced bills proposed expanding access to free school meals through CEP and other mechanisms. The Expanding Access to School Meals Act of 2019 (H.R. 5308) and the School Hunger Elimination Act of 2019 (S. 2752), for example, would increase the CEP reimbursement multiplier from 1.6 to 1.8. The Universal School Meals Program Act of 2019 (H.R. 4684/S. 2609) would provide federal funding for all schools to serve free meals to all students.

[3] See, for example, V. Palacio, "Community Eligibility: A Remedy for Lunch Shaming in Some School Districts," CLASP, May 24, 2017, https://www.clasp.org/blog/community-eligibility-remedy-lunch-shaming-some-school-districts.

[4] USDA, FNS, *Community Eligibility Provision Evaluation*, February 2014, pp. 120-121, https://www.fns.usda.gov/community-eligibility-provision-evaluation. The evaluation found that CEP did not eliminate administrative burdens for school districts entirely; participating schools and districts still have to conduct direct certification and count and claim meals for reimbursement.

[5] Ibid, p. 129.

[6] Ibid, pp. 100-101.

[7] Ibid, p. 110.

[8] FRAC, "School Meals Legislation and Funding by State," August 2019, https://frac.org/wp-content/uploads/state_leg_table_scorecard.pdf.

[9] For more information, see CRS Report R44373, *Tracking Child Nutrition Reauthorization in the 114th Congress: An Overview*.

This report provides background on traditional eligibility and reimbursement procedures in the federal school meals programs and discusses the emergence of alternative certification and reimbursement options available to schools, including CEP. It then describes CEP program rules and presents data on CEP participation and trends and the characteristics of CEP schools and districts. A closer look at how CEP has been implemented and who it is serving in its eighth year of operation may help to inform any future congressional deliberations to amend or retain current law.

Background

NSLP and SBP (the *school meals programs*) provide federal funding toward breakfasts and lunches served in approximately 94,500 participating public and private elementary and secondary schools nationwide.[10] Federal law does not require participation in NSLP or SBP; however, some states require schools to participate.[11] Approximately 90% of students nationwide attend a school that operates NSLP and/or SBP.[12]

At the federal level, the school meals programs are administered by USDA's Food and Nutrition Service (FNS). At the state level, the programs are often administered by a state department of education. At the local level, the programs are administered by school food authorities—typically, food service departments at the school district level—which oversee school meal operations.[13] Local educational agencies—the broader school district or school board—also play a role in administering the school meals programs. (Throughout this report, the term *school district* is used to refer to both school food authorities and local educational agencies.)

Through the programs, free and reduced-price breakfasts and lunches are served to eligible students, and non-eligible students may purchase full-price meals.[14] Schools receive federal reimbursements in the form of cash for each meal they serve; the highest reimbursements are provided for free and reduced-price meals, but paid (full-price) meals also receive a small federal reimbursement (see **Table 1** for the reimbursement rates in SY2019-2020). Schools also receive a smaller amount of commodity assistance (i.e., USDA-purchased foods) and state administering agencies receive administrative funds. Schools must cover any remaining food service costs using non-federal funding (e.g., state and local funding or student payments for food).

Federal funding for the school meals programs is largely mandatory appropriated funding. The majority of this funding is for per-meal, cash reimbursements that are provided to states, who

[10] USDA, FNS, "March Keydata Report (January 2020 data)," April 10, 2020, https://www.fns.usda.gov/data/march-keydata-report-january-2020-data. A relatively small number of residential child care institutions also participate in the school meals programs.

[11] For more information, see CRS Report R46234, *School Meals and Other Child Nutrition Programs: Background and Funding*.

[12] 51.9 million students attended a school operating NSLP and 49.4 million students attended a school operating SBP (with overlap) as of October 2019, according to USDA, FNS, "March Keydata Report (January 2020 data)," April 10, 2020, https://www.fns.usda.gov/data/march-keydata-report-january-2020-data. 56.6 million students were enrolled in public or private elementary or secondary schools as of fall 2019, according to U.S. Department of Education, National Center for Education Statistics, "Table 105.20. Enrollment in elementary, secondary, and degree-granting postsecondary institutions, by level and control of institution, enrollment level, and attendance status and sex of student: Selected years, fall 1990 through fall 2028," Digest of Education Statistics, https://nces.ed.gov/programs/digest/d18/tables/dt18_105.20.asp.

[13] In rare cases, a school food authority will oversee meal service at more than one school district. See definitions of *school food authority* and *local educational agency* at 7 C.F.R. 210.2 and 7 C.F.R. 220.2.

[14] Per statute, schools may not charge students more than 30 cents per reduced-price breakfast and more than 40 cents per reduced-price lunch.

distribute payments to school food authorities. For further background on the school meals programs, see CRS Report R46234, *School Meals and Other Child Nutrition Programs: Background and Funding*.

Table 1. Reimbursement Rates: NSLP and SBP, SY2019-2020

Per-meal Reimbursement Rates for the 48 Contiguous States and the District of Columbia

	Breakfast	Lunch
Free	$1.84-$2.20	$3.41-$3.65
Reduced-price	$1.54-$1.90	$3.01-$3.25
Paid	$0.31	$0.32-$0.47

Source: USDA, FNS, "National School Lunch, Special Milk, and School Breakfast Programs, National Average Payments/Maximum Reimbursement Rates," November 1, 2019, 84 *Federal Register* 58678, https://www.federalregister.gov/documents/2019/11/01/2019-23946/national-school-lunch-special-milk-and-school-breakfast-programs-national-average-paymentsmaximum (see link for rates for Alaska, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands).

"Traditional" Certification Methods

Most schools participating in the NSLP and SBP certify children for free and reduced-price meals the traditional way: through household applications and direct certification.

Household Applications

At the beginning of each school year, families are encouraged to fill out an application (online or paper format) for free or reduced-price school meals, in which they provide the household's size, monthly income, and a limited amount of other information. Children in households with an annual income at or below 130% of the federal poverty level ($33,475 for a household of four in SY2019-2020) qualify for free meals and those in households with an annual income between 130% and 185% of the federal poverty level ($33,475 to $47,638 for a household of four in SY2019-2020) qualify for reduced-price meals.

Under the law, some children are categorically eligible for free meals (no income test is needed) due to household participation in the Supplemental Nutrition Assistance Program (SNAP), Food Distribution Program on Indian Reservations, or Temporary Assistance for Needy Families (TANF); or because the children participate in Head Start or a program under the Runaway and Homeless Youth Act, or qualify as a homeless, runaway, migrant, or foster child.[15] Households can indicate categorical eligibility on the household application.

Direct Certification

Direct certification is a process through which all NSLP/SBP-participating school districts and state agencies certify children for free or reduced-price school meals without using a household application.[16] Per statute, state agencies and school districts must conduct direct certification with

[15] See Section 9(b)(12)(A) of the Russell National School Lunch Act (codified at 42 U.S.C. 1758(b)(12)(A)) for the specific definitions of these categories.

[16] Direct certification authority is in Section 9(b)(4)-(5) of the Russell National School Lunch Act (codified at 42 U.S.C. 1758(b)(4)-(5)). *Direct certification* is defined in NSLP/SBP program regulations at 7 C.F.R. 245.2.

SNAP, whereas they have the option to conduct direct certification for the other programs and statuses that convey categorical eligibility.

For SNAP and other federal programs, the direct certification process typically involves state agencies (e.g., state SNAP and state educational agencies) cross-checking program rolls.[17] A list of matched children is sent to the school district, which certifies children for free meals without the need for a household application.[18] For foster, homeless, migrant, and runaway children, direct certification typically involves school district communication with a local or state official who can provide documentation of the child's status in one of these categories.[19]

In addition, USDA currently administers a demonstration project in selected states to directly certify children in Medicaid households for free and reduced-price school meals.[20]

Table 2, based on USDA administrative data, shows that the majority of NSLP and SBP schools administer school meals programs under traditional certification and reimbursement rules. CEP is currently the most-utilized special option (special options include Provision 1, Provision 2, and Provision 3, discussed in the next section).

Table 2. NSLP/SBP: Traditional Versus Special Options, SY2018-2019

	Percentage of NSLP/SBP Schools	Percentage of Students Enrolled in NSLP/SBP Schools
Traditional NSLP/SBP	67.4%	70.7%
CEP	29.8%	27.1%
Provision 2 or Provision 3	2.7%	2.1%
Provision 1	0.1%	0.1%
Total	100.0%	100.0%

Source: CRS tabulations of USDA FNS-742 administrative data for SY2018-2019.

The Emergence of Alternative Certification and Reimbursement Options

Starting in 1977, Congress authorized special options intended to reduce paperwork for schools and households and increase access to school meals. Authorized in Section 11 of the Richard B.

[17] USDA, FNS, Office of Policy Support, Direct Certification in the National School Lunch Program: State Implementation Progress, School Year 2014–2015: Report to Congress, Special Nutrition Programs Report No. CN-15-DC, December 2016, p. xiii, https://fns-prod.azureedge.net/sites/default/files/ops/NSLPDirectCertification2015.pdf.

[18] However, parents and guardians are notified of the child's enrollment in free meals and are allowed to opt out.

[19] USDA, FNS, *Eligibility Manual for School Meals: Determining and Verifying Eligibility*, July 2017, https://www.fns.usda.gov/eligibility-manual-school-meals.

[20] According to CRS communication with USDA, FNS in November 2019, as of SY2019-2020, there were 19 states operating direct certification with Medicaid. Four of the states (Illinois, Kentucky, New York, and Pennsylvania) used Medicaid to directly certify for free meals only (130% of the poverty level or below). Fifteen states (California, Connecticut, Florida, Indiana, Iowa, Massachusetts, Michigan, Nebraska, Nevada, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin) were operating under an expanded direct certification demonstration project to test direct certification with Medicaid for free and reduced-price meals (up to 185% of the poverty level).

Russell National School Lunch Act, the options provide alternative eligibility determination processes and reimbursement formulas to schools electing the options.[21]

Provision 1, Provision 2, and Provision 3

Provision 1 and Provision 2 were authorized in 1977 (P.L. 95-166). Provision 1 allows high-poverty schools—those with at least 80% of students qualifying for free or reduced-price lunches—to certify children for *free* meals for two consecutive school years instead of a single year (reducing the paperwork burden). Children who are not certified for free meals must still be provided an application for free or reduced-price meals on an annual basis, and they may apply for such meals on an ongoing basis.[22]

Provision 2 allows schools that agree to provide free meals to all students to make eligibility determinations every four years.[23] Eligibility determinations in the first year (*base year*) are made via household application and direct certification. Provision 2 schools' meal reimbursements are based on the proportion of meals served at the free/reduced-price/paid rate during the base year applied to the total meal counts in the current year.

Provision 3 was added in 1994 (P.L. 103-448). Similar to Provision 2, schools must agree to provide free meals to all students and they may operate the provision for a four-year period. The difference is the reimbursement formula: Provision 3 schools make eligibility determinations and track meal counts in a base year (the year *before* the four-year period). The amount of funding they receive in subsequent years is the amount in the base year adjusted for inflation, enrollment, and operating days.

Unlike Provision 1 and CEP, there is no eligibility threshold for schools to participate in Provision 2 or Provision 3. While Provision 2 and Provision 3 are more widely accessible than CEP, USDA's CEP evaluation found that school districts operating Provision 2 or Provision 3 found CEP appealing because of its reimbursement formula and elimination of household applications (discussed below).[24]

Community Eligibility Provision (CEP)

CEP was created in 2010 by P.L. 111-296.[25] According to the Senate committee report accompanying the legislation, CEP was intended to increase access to free meals and reduce

[21] Section 11(a)(1)(B) is Provision 1, (C)-(D) is Provision 2, (E) is Provision 3, and (F) is the Community Eligibility Provision.

[22] 7 C.F.R. §245.9(a).

[23] USDA, FNS, "Provision 2 Guidance National School Lunch and School Breakfast Programs," last updated in 2002, https://fns-prod.azureedge.net/sites/default/files/Prov2Guidance.pdf.

[24] USDA, FNS, *Community Eligibility Provision Evaluation*, February 2014, p. 58, available at https://www.fns.usda.gov/community-eligibility-provision-evaluation.

[25] P.L. 111-296 also authorized "universal meal service through Census data" demonstration projects, allowing USDA to test alternative eligibility determination procedures and reimbursement using Census or other socioeconomic survey data (Section 11(g) of the Richard B. Russell National School Lunch Act, codified at 42 U.S.C. 1759a(g)). USDA ultimately decided not to carry out these demonstration projects after exploring the feasibility of the approach in a study conducted with the National Academy of Sciences: National Research Council, Committee on National Statistics, Division of Behavioral and Social Sciences and Education, *Using American Community Survey Data to Expand Access to the School Meals Programs. Panel on Estimating Children Eligible for School Nutrition Programs Using the American Community Survey*, prepared for USDA, FNS, 2012, https://fns-prod.azureedge.net/sites/default/files/CNSTAT.pdf.

paperwork for schools and families by eliminating applications.[26] It was also intended to eliminate any stigmas that low-income children face in the cafeteria.

CEP was phased in over three school years, and became an option for school districts in all states in SY2014-2015. The first states to implement CEP were Illinois, Kentucky, and Michigan in SY2011-2012, followed by the District of Columbia, New York, Ohio, and West Virginia in SY2012–2013, and Florida, Georgia, Maryland, and Massachusetts in SY2013-2014.[27] States had to apply for early implementation, and FNS selected the pilot states based on "State and local support, eligibility of schools within the State, and the State's overall level of readiness for CEP."[28]

Like Provision 2 and Provision 3, CEP requires participating schools to provide free meals to all students, and schools may opt into the provision for a four-year period. The main differences between CEP and Provision 2 and Provision 3 are that (1) schools must meet an eligibility threshold to participate in CEP, (2) CEP does not use household applications, and (3) CEP provides a different reimbursement formula.

Table 3 summarizes the differences between Provision 1, Provision 2, Provision 3, and CEP.

Table 3. Comparing Provision 1, Provision 2, Provision 3, and CEP

	Provision 1	Provision 2	Provision 3	CEP
Institutional eligibility	A school with at least 80% of students certified for free or reduced-price meals can participate	Any school, group of schools, or school district can participate	Any school, group of schools, or school district can participate	Any school, group of schools, or school district with an identified student percentage (ISP) greater than or equal to 40% can participate
Programs affected	Must operate for NSLP and SBP, or just NSLP	Can operate for NSLP and/or SBP	Can operate for NSLP and/or SBP	Must operate for NSLP and SBP
Universal meal service	Not required	Must serve free meals to all students	Must serve free meals to all students	Must serve free meals to all students

[26] U.S. Congress, Senate Committee on Agriculture, Nutrition, and Forestry, Healthy, Hunger-Free Kids Act, report to accompany S. 3307, 111th Cong., 2nd sess., S.Rept. 111-178 (Washington, DC: GPO, 2010), p. 6.

[27] USDA, FNS, "Community Eligibility Provision (CEP): Planning & Implementation Guidance," September 2016, p. 8, https://www.fns.usda.gov/fall-2016-edition-community-eligibility-provision-planning-and-implementation-guidance.

[28] Ibid. Also see USDA, FNS, "USDA Announces Universal Meal Service Option to Boost School Meal Participation in High-Poverty Areas," March 24, 2011, https://www.fns.usda.gov/pressrelease/2011/000111; and USDA, FNS, "USDA Announces Next States Chosen to Phase In Streamlined Free School Meal Option," May 4, 2012, https://www.fns.usda.gov/pressrelease/2012/fns-212.

	Provision 1	Provision 2	Provision 3	CEP
Frequency of eligibility determinations	Children may be certified for free meals for a two-year period; annual household applications for all other children	Household applications and direct certification every four years[a]	Household applications and direct certification every five years[a]	Direct certification at least every four years
Meal counting	Must keep track of free/reduced-price/paid meals (normal counting)	Must keep track of free/reduced-price/paid meals in first year; total number of meals in subsequent years	Must keep track of free/reduced-price/paid meals in first year; total number of meals in subsequent years	Must keep track of total number of meals
Reimbursement	Based on proportion of meals served at free/reduced-price/paid rates (normal reimbursement)	Based on proportion of meals served at free/reduced-price/paid rates in first year applied to total meal counts in subsequent years	Based on total funds received in first year adjusted for inflation, enrollment, and operating days in subsequent years	The proportion of meals reimbursed at the free rate is the ISP multiplied by 1.6; remainder of meals are reimbursed at the paid rate

Source: CRS, based on Section 11 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a) and 7 C.F.R. §245.9.

a. At the end of the initial cycle, and each subsequent four-year cycle, state agencies may allow schools to continue operating under Provision 2 or Provision 3 for another four years (without administering household applications and direct certification) "if the local educational agency can establish, through available and approved socioeconomic data, that the income level of the school's population, as adjusted for inflation, has remained stable, declined or has had only negligible improvement since the base year" (7 C.F.R. 245.9(c) and 7 C.F.R. 245.9(e)).

How Does CEP Work?

CEP allows eligible schools, groups of schools, and school districts to offer free meals to all students, eliminate household applications, and receive an alternate federal reimbursement formula. Local educational agencies make the decision about whether to participate in CEP on behalf of eligible schools. Eligible schools must operate both NSLP and SBP in order to participate in CEP.

Eligibility for CEP

Schools, groups of schools, or school districts must also have an identified student percentage (ISP) of at least 40%.[29] The ISP is the percentage of enrolled students who are certified for free meals by the school district or state agency *without the use of a household application* based on[30]

[29] Section 11(a)(1)(F)(viii) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)(F)(viii)).

[30] The definition of the ISP is in program regulations at 7 C.F.R. 245.6a(c)(2) and 7 C.F.R. 245.9(f)(1)(ii). According to the Richard B. Russell National School Lunch Act, "The term 'identified students' means students certified based on

- participation in
  - the Supplemental Nutrition Assistance Program (SNAP),
  - the Food Distribution Program on Indian Reservations (FDPIR),
  - Temporary Assistance for Needy Families (TANF),
  - a program under the Runaway and Homeless Youth Act,
  - Head Start, or
  - Medicaid (demonstration states only)[31];
- or status as a
  - foster child,
  - homeless child, or
  - migrant child.

As discussed previously, school districts and states are required to directly certify children in SNAP households for free meals. They are not required to certify children in the other categories (and may instead rely on household applications for such pathways).

Because CEP eligibility and reimbursement are based on the ISP, household applications are no longer required under CEP. This has caused some difficulty for other federal and state programs that use the percentage of free and reduced-price eligible students for funding allocations and program eligibility.[32] Notably, the free and reduced-price lunch percentage is often used to approximate school-level poverty to allocate funds to schools in the federal Title I-A program. The U.S. Department of Education developed alternatives to free and reduced-price lunch data in Title I-A, and currently allows flexibility to use the ISP, household income surveys, and other measures of poverty. For more information, see CRS Report R44568, *Overview of ESEA Title I-A and the School Meals' Community Eligibility Provision*.

Some Factors That Affect Schools' Identified Student Percentages (ISPs)

According to USDA, CEP is intended for "high-poverty" schools.[33] However, there are several reasons why the pool of CEP-eligible schools may not represent all high-poverty schools in the United States. First, the ISP is not a perfect proxy for poverty. The ISP largely depends on the number of students directly certified for free meals via SNAP, and SNAP itself is not a perfect proxy for poverty. For example, some households may be financially eligible for SNAP benefits but ineligible due to non-financial rules such as student-, citizenship- and crime-related

documentation of benefit receipt or categorical eligibility as described in section 245.6a(c)(2) of title 7, Code of Federal Regulations (or successor regulations)." For a simpler overview of the ISP, see USDA, FNS, "State Agency Checklist for Checking Identified Student Percentage Accuracy," December 2015, https://fns-prod.azureedge.net/sites/default/files/cn/SP15-2016a2v2.pdf. A school's ISP is essentially the same as its direct certification rate, except that the ISP does not include students who are directly certified for reduced-price meals through the Medicaid demonstration. The ISP may also include a small number of students in households that do not submit an application but who are certified by a school official as meeting the household income standards for school meals.

[31] Students are only included in the ISP if they are certified for *free* meals (not reduced-price meals) through the Medicaid direct certification demonstration project.

[32] For a list of state education funding formulas as of June 2017 that use free and reduced-price school meal data, see Food Research and Action Center (FRAC) and Center on Budget and Policy Priorities (CBPP), "Alternative Approaches to Using School Meals Data in Community Eligibility (CEP) Schools," June 2017, https://frac.org/wp-content/uploads/cep-state-education-data-policies.pdf.

[33] USDA, FNS, "Community Eligibility Provision," https://www.fns.usda.gov/school-meals/community-eligibility-provision.

restrictions.[34] As one potential result of this, schools in areas with large noncitizen populations may be less likely to be eligible for CEP. In addition, the rate at which eligible households are enrolled in SNAP also varies by state.[35] Differing rates of participation in SNAP may also affect CEP eligibility.

Also limiting the ISP as a proxy for poverty, there are differences among districts and states in directly certifying children for free school meals via SNAP. Direct certification with SNAP has improved over time, and many states are now meeting the legislatively-required direct certification rate of at least 95% of school-aged children in SNAP households. However, as of SY2016-2017 (the latest year for which data are available), USDA reported that 23 states and one territory were not meeting this threshold.[36]

As discussed earlier in this report, the ISP is also informed by the number of students directly certified through pathways such as participation in TANF or Medicaid (in certain states) and status as a homeless, foster, or migrant child. Direct certification using these pathways is not mandatory, and depends on states' and school districts' efforts. Participation rates in TANF and Medicaid also vary substantially by state.

For these reasons, CEP eligibility is subject to changes in eligibility and participation in the aforementioned federal programs, particularly SNAP. For example, the Urban Institute (a nonprofit research and advocacy organization) analyzed the effects of USDA's 2019 proposed change to SNAP's broad-based categorical eligibility rules, and estimated that it would result in at least 142,000 fewer students having access to CEP.[37] USDA's regulatory impact analysis of the effect of the proposed rule on eligibility for free school meals recognized that the rule may reduce some schools' ISPs, and thus their reimbursements under CEP, but predicted that the "vast majority of CEP-participating schools will be able to continue to participate in CEP under this proposal."[38]

The Four-Year CEP Cycle and Reimbursement

Per statute, state agencies are required to publish a list of CEP-eligible and near-eligible (ISP of 30% or higher) schools by May 1 of each school year.[39] By June 30, local educational agencies must notify the state agency if they plan to operate CEP for an eligible district, group of schools, or individual school in the next school year.[40]

Though CEP schools serve free meals to all students, they are not necessarily reimbursed at the free rate for every meal served. The law provides a funding formula: the ISP is multiplied by 1.6 to estimate the proportion of students who would have been eligible for free or reduced-price meals had they been certified via application. The result is the percentage of meals served that

[34] For more information, see CRS Report R42505, *Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits*; CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policy Overview*; and CRS Report R42394, *Drug Testing and Crime-Related Restrictions in TANF, SNAP, and Housing Assistance*.

[35] See, for example, K. Cunnyngham, *Reaching Those in Needs: Estimates of State Supplemental Nutrition Assistance Program Participation Rates in 2016*, prepared by Mathematica Policy Research for USDA, FNS, March 2019, https://www.fns.usda.gov/snap/reaching-those-need-estimates-state-supplemental-nutrition-assistance-program-participation-rates-fy.

[36] Q. Moore, K. Conway, and B. Kyler, et al., Direct Certification in the National School Lunch Program: State Implementation Progress, School Year 2014-2015: Report to Congress, prepared by Mathematica Policy Research for USDA FNS, CN-15-DC, October 2016, p. 24, https://www.fns.usda.gov/direct-certification-national-school-lunch-program-report-congress-state-implementation-progress-0.

[37] For example, the Urban Institute estimated the effects of changes to SNAP's broad-based categorical eligibility (BBCE) rules on eligibility for school meals and CEP in K. Blagg, M. Rainer, and E. Waxman, *How Restricting Categorical Eligibility for SNAP Affects Access to Free School Meals*, October 2019, https://www.urban.org/sites/default/files/publication/101280/how_restricting_categorical_eligibility_for_snap_affects_access_to_free_school_meals.pdf

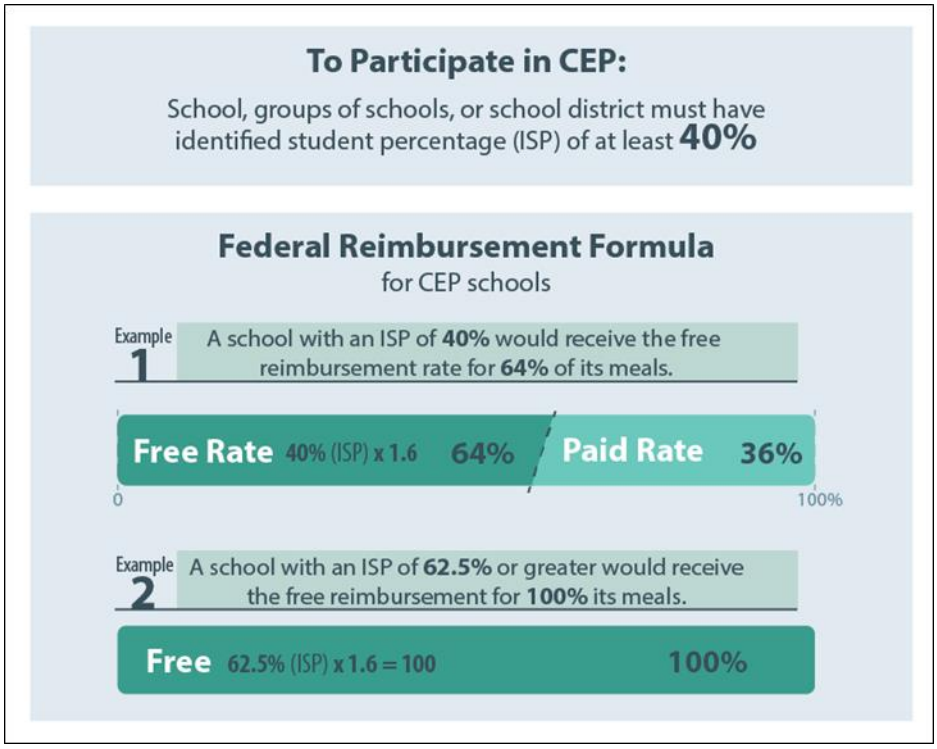
[38] USDA, FNS, "Proposed Rule: Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (RIN 0584-AE62) – Potential impacts on Participants in the National School Lunch Program and School Breakfast Program," Informational Analysis, FNS-2018-0037-16046, October 15, 2019, https://www.regulations.gov/document?D=FNS-2018-0037-16046.

[39] Section 11(a)(1)(F)(x)(IV) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)(F)(x)(IV)).

[40] Section 11(a)(1)(F)(x) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)(F)(x)).

will be reimbursed at the free meal rate (for lunches, $3.41-$3.65 in SY2019-2020), with the remainder reimbursed at the lower paid meal rate ($0.32-$0.47 per lunch in SY2019-2020). For example, if a CEP school has an ISP of 40%, then 64% of its meals served would be reimbursed at the free meal rate and 36% would be reimbursed at the paid meal rate. If a school has an ISP of at least 62.5%, then 100% of its meals would be reimbursed at the free rate (62.5% multiplied by 1.6 equals 100%). The formula is displayed in **Figure 2**.

Figure 2. Community Eligibility Provision (CEP): Eligibility and Reimbursement



Source: Graphic by CRS based on current law formula.

Notes: The Identified Student Percentage (ISP) is the percentage of enrolled children who are certified for free meals without a household application.

While the law allows USDA to set the multiplier between 1.3 and 1.6, the multiplier has been 1.6 since CEP's phase-in and was finalized in implementing regulations published in 2016.[41]

Schools must recalculate the ISP annually on April 1. If the ISP increases in the second, third, or fourth year of CEP, schools may choose to use the most recently-calculated ISP to determine their reimbursement rate in that school year instead of the original ISP. Schools may also choose to start a new four-year CEP cycle with the most recent ISP if it is higher.

The ISP in the fourth year is used to determine schools' eligibility for another four-year cycle.[42] If the ISP falls below the 40% threshold, but is above 30%, schools are eligible for a fifth (grace) year of CEP.

[41] Section 11(a)(1)(F)(vii) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)(F)(vii)); USDA FNS, "National School Lunch Program and School Breakfast Program: Eliminating Applications through Community Eligibility as Required by the Healthy, Hunger-Free Kids Act of 2010," 81 *Federal Register* 50194, July 29, 2016.

[42] 7 C.F.R. 245.9(f).

Local educational agencies can end participation in CEP and switch back to traditional NSLP/SBP procedures at any time, though USDA discourages mid-year switches unless necessary.[43]

Table 4 shows the total monthly lunch reimbursement that a school serving 500 meals would receive under three hypothetical scenarios: (1) traditional NSLP reimbursement, (2) CEP with a 40% ISP, and (3) CEP with a 60% ISP. CEP with a 60% ISP provides the highest monthly reimbursement. CEP with a 40% ISP provides a slightly higher reimbursement than traditional NSLP. However, this assumes that CEP's 1.6 multiplier accurately reflects the number of meals that the school would have served at a free or reduced-price under traditional NSLP. The 1.6 multiplier was based on national studies, and it may not reflect the student population in every school.[44] If a school served more free and reduced-price meals than was reflected in the 1.6 multiplier, then traditional NSLP/SBP would be more financially viable than CEP at a 40% ISP.

Table 4. Hypothetical Scenario: Reimbursement Under Traditional NSLP Versus CEP

Monthly Reimbursements Under Traditional NSLP Versus CEP for a School Serving 500 Lunches a Month

Reimbursement Category	Maximum Reimbursement Rate, SY2019-2020 (Actual)	Number of Lunches Served (Hypothetical)	Total Monthly Lunch Reimbursements
Traditional NSLP (some students receive free meals)			
Free	$3.65	220	$803
Reduced-price	$3.25	100	$325
Paid	$0.47	180	$85
Total		500	**$1,213**
CEP at a 40% ISP (all students receive free meals)			
The number of lunches reimbursed at the free rate is 40% of 500 = 200 x 1.6 = 320			
Free	$3.65	320	$1,168
Paid	$0.47	180	$85
Total		500	**$1,253**
CEP at a 60% ISP (all students receive free meals)			
The number of lunches reimbursed at the free rate is 60% of 500 = 300 x 1.6 = 480			
Free	$3.65	480	$1,752
Paid	$0.47	20	$9
Total		500	**$1,761**

Source: CRS, based on Section 11 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a) and 7 C.F.R. §245.9.

Notes: In CEP, the number of lunches reimbursed at the free rate is the ISP multiplied by 1.6.

[43] USDA, FNS, "Community Eligibility Provision (CEP): Planning & Implementation Guidance," September 2016, p. 56, https://www.fns.usda.gov/fall-2016-edition-community-eligibility-provision-planning-and-implementation-guidance.

[44] USDA, FNS, "National School Lunch Program and School Breakfast Program: Eliminating Applications through Community Eligibility as Required by the Healthy, Hunger-Free Kids Act of 2010," 81 *Federal Register* 50194, July 29, 2016.

CEP Participation and Trends

CRS used FRAC's CEP database and USDA's administrative data to examine CEP participation and the characteristics of CEP schools and districts (data sources described in **Appendix A**). According to FRAC's CEP Database, 28,714 schools in 4,742 school districts participated in CEP in SY2018-2019, representing approximately 31% of the schools and 24% of the school districts participating in the school meals programs.[45] Nearly 13.7 million students attended CEP schools. **Table 5** shows the number of CEP schools, districts with at least one CEP school, and student enrollment in CEP schools over time.

Table 5. CEP Participation, SY2011-2012 to SY2018-2019

Number of CEP Schools and Districts and Student Enrollment Since CEP's Inception

School Year	CEP Availability	Number of CEP Schools	Number of Districts with at Least One CEP School	Number of Students (millions)
2011-2012	3 states	665	n/a	0.3
2012-2013	6 states and DC	3,495	420	1.0
2013-2014	10 states and DC	3,999	638	1.8
2014-2015	Nationwide	14,230	2,222	6.7
2015-2016	Nationwide	18,220	2,987	8.5
2016-2017	Nationwide	20,721	3,544	9.7
2017-2018	Nationwide	24,950	4,107	11.8
2018-2019	Nationwide	28,714	4,742	13.7

Source: Figures for SY2011-2012 and the number of students in SY2012-2013 are from M. Levin, and Z. Neuberger, *Community Eligibility: Making High-Poverty Schools Hunger Free*, Center on Budget and Policy Priorities, 2013, https://www.cbpp.org/research/community-eligibility-making-high-poverty-schools-hunger-free. The number of schools and districts for SY2012-2013 is from USDA, FNS, *Community Eligibility Provision Evaluation*, February 2014, https://www.fns.usda.gov/community-eligibility-provision-evaluation. Figures for SY2013-2014 are from USDA, FNS, "Community Eligibility Provision Evaluation: Year 3 Addendum," January 2015. The number of students in SY2014-2015 and SY2015-2016 are from FRAC, *Community Eligibility: The Key to Hunger-Free Schools: School Year 2018–2019*, May 2019, https://frac.org/research/resource-library/community-eligibility-the-key-to-hunger-free-schools-school-year-2018-2019. Remaining figures for SY2014-2015 to SY2018-2019 are from CRS tabulations of FRAC's CEP Database as of March 2020.

Notes: n/a = not available.

Not all eligible schools participated in CEP. There were at least 15,486 eligible schools in 9,291 districts that did not participate in CEP in SY2018-2019.[46] Most eligible districts (those with at least one eligible school) elected CEP for all or none of their schools: roughly 48% elected CEP

[45] The percentage of schools was calculated using FRAC's CEP Database for SY2018-2019 and applied to the total number of NSLP schools as of October 2019 from USDA, FNS, "March Keydata Report (January 2020 data)," April 10, 2020, https://www.fns.usda.gov/data/march-keydata-report-january-2020-data. The percentage of school districts was calculated using USDA FNS-742 administrative data for SY2018-2019.

[46] CRS tabulations of FRAC's CEP Database for SY2018-2019 as of March 2020. This is likely an underestimate of CEP-eligible schools because the dataset does not include schools with an ISP lower than 40% that could have, but did not, group with other schools in order to participate.

for all eligible schools, 43% did not elect CEP for any eligible schools, and 9% elected CEP for some eligible schools.[47]

This section presents statistics on CEP schools and districts and discusses the factors associated with CEP participation. Several factors may inform a local educational agency's decision to opt in to CEP for one or more eligible schools, including the ISP (and the resulting level of federal reimbursement) and the district's size. In general, schools with ISPs between 55% and 80% and large, public school districts are more likely to participate in CEP. State-level factors may also influence CEP participation, such as state agency outreach and the strength of the state's direct certification system.

Identified Student Percentage (ISP)

As discussed previously (see the "The Four-Year CEP Cycle and Reimbursement" section), federal reimbursements increase with the ISP up to 62.5%, at which point schools receive the free reimbursement rate for all meals.

In SY2018-2019, most schools that participated in CEP had ISPs between 40% and 80%. There were relatively few eligible or participating schools with ISPs above that range. The average ISP of participating schools was 61.0%. Just over half (53%) of participating schools had ISPs at or above 62.5%.

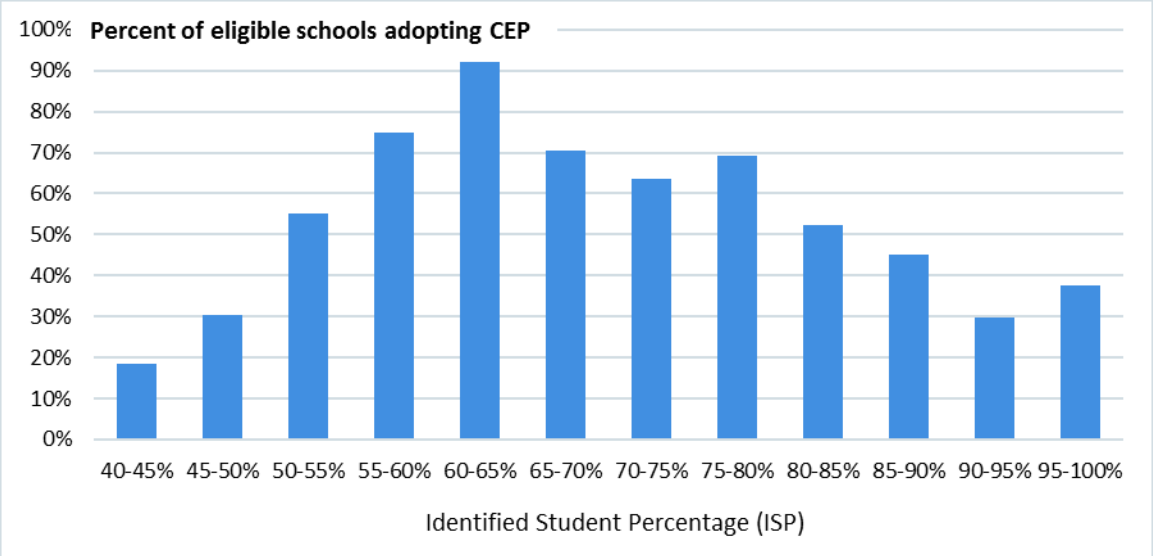
As would be expected, schools with the lowest ISPs (between 40% and 50%) were the least likely to participate in CEP in SY2018-2019. Schools with an ISP between 60% and 65% were the most likely to adopt CEP, perhaps reflecting the financial incentive of reaching the 62.5% threshold (**Figure 3**).

Less expectedly, CEP participation decreased at higher ISP levels. This indicates that the highest poverty schools took up CEP at lower rates. There are a few potential explanations. First, there is no added financial benefit of having an ISP of 62.5% versus a higher ISP (both would receive the free reimbursement for 100% of meals). Second, higher-poverty schools may already be serving free meals to all students and reducing household applications through other mechanisms and may see less of a need for CEP. In a study published in August 2018, USDA's Economic Research Service (ERS) examined CEP participation in SY2015-2016 and found relatively low participation among school districts with ISPs between 90% and 100%. It found that such districts were more likely to be "very small," with an average enrollment of 1,000 students or fewer. The study theorized that such districts were likely already providing free meals to all students and eliminating household applications by directly certifying all students for free meals or by operating Provision 2 or Provision 3. Therefore, such districts "may not find it worth the extra effort to adopt CEP if the burden of certification is already low and virtually all students are already covered."[48]

[47] Ibid. Several schools were missing data on the type of grouping; therefore, these estimates should be viewed as approximations.

[48] S. Rogus, J. Guthrie, and K. Ralston, *Characteristics of School Districts Offering Free School Meals to All Students Through the Community Eligibility Provision of the National School Lunch Program*, ERR-255, USDA, ERS, August 2018, p. 18, https://www.ers.usda.gov/publications/pub-details/?pubid=89947.

Figure 3. CEP Participation in SY2018-2019 by Identified Student Percentage (ISP)



Source: CRS tabulations of FRAC's CEP Database for SY2018-2019.

Notes: The ISP is the percentage of students who are certified for free meals without the use of a household application. Schools, groups of schools, or school districts must have an ISP of at least 40% to participate in CEP. The ISP informs the amount of federal funding that CEP schools receive.

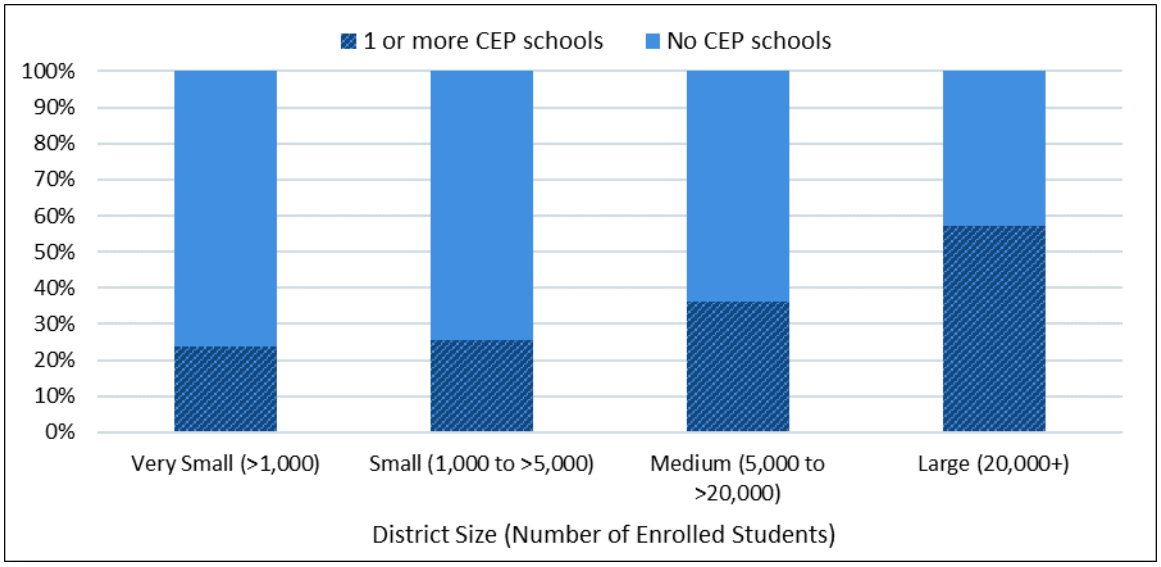
District Size

On average, CEP participation increases with district size. In SY2018-2019, approximately 57.0% of large school districts operated CEP for at least one school, compared to 36.3% of medium districts, 25.5% of small districts, and 23.6% of very small districts (**Figure 4**).[49] Like the ERS study cited previously, CRS defined very small districts as those with fewer than 1,000 students, small districts as those with 1,000 to fewer than 5,000 students, medium districts as those with 5,000 to fewer than 20,000 students, and large districts as those with 20,000 or more students. The ERS study of CEP found similar results, in that very small and small districts were less likely to operate CEP for eligible schools compared to large school districts and these differences were statistically significant.

[49] CRS tabulations of USDA FNS-742 administrative data for SY2018-2019. These findings are similar to those in a School Nutrition Association (SNA) survey of its member districts in SY2018-2019; see SNA, *2019 School Nutrition Trends Report*, https://schoolnutrition.org/2019-school-nutrition-trends-summary-report.

Figure 4. CEP Participation in SY2018-2019 by District Size

Percentage of NSLP/SBP School Districts with at Least One CEP School



Source: CRS tabulations of USDA FNS-742 administrative data for SY2018-2019.

As noted in the previous section, the ERS study also found interactions between school district size and ISP. Specifically, eligible very small districts with a low ISP (between 40% and 50%) were more likely to participate in CEP than eligible large districts in the same ISP range. Conversely, large districts with a high ISP (between 90% and 100%) were more likely to participate in CEP than eligible districts of all other sizes in the same ISP range.[50]

Research shows that higher CEP participation among larger districts may be due to increased administrative capacity to learn new program rules and to serve a higher volume of meals. The ERS study theorized that larger school districts may have an easier time serving an increased volume of meals under CEP, as larger districts "can take advantage of economies of scale, thereby reducing costs by large volume purchasing and efficient use of labor, food, and other resources."[51] USDA's 2014 evaluation of early implementation states postulated that large districts may have greater administrative capacity to implement CEP and/or may have more advanced direct certification systems and thus higher ISPs.[52]

State

As would be expected, populous states such as California, New York, and Texas had the largest raw numbers of CEP schools. In some states, CEP schools comprised a large proportion of the state's NSLP schools.[53] For example, in Alaska, Delaware, the District of Columbia, Kentucky,

[50] S. Rogus, J. Guthrie, and K. Ralston, *Characteristics of School Districts Offering Free School Meals to All Students Through the Community Eligibility Provision of the National School Lunch Program*, ERR-255, USDA, ERS, August 2018, p. 19, https://www.ers.usda.gov/publications/pub-details/?pubid=89947.

[51] Ibid, p. 15.

[52] USDA, FNS, *Community Eligibility Provision Evaluation*, February 2014, pp. 58, 88, https://www.fns.usda.gov/community-eligibility-provision-evaluation.

[53] This report examines CEP schools as a proportion of NSLP schools because data on the number of NSLP- and SBP-participating schools is not available. The vast majority of NSLP schools also operate SBP.

Louisiana, New Mexico, New York, and West Virginia, CEP schools were more than half of all NSLP schools in the state in SY2018-2019 (**Table B-1**).

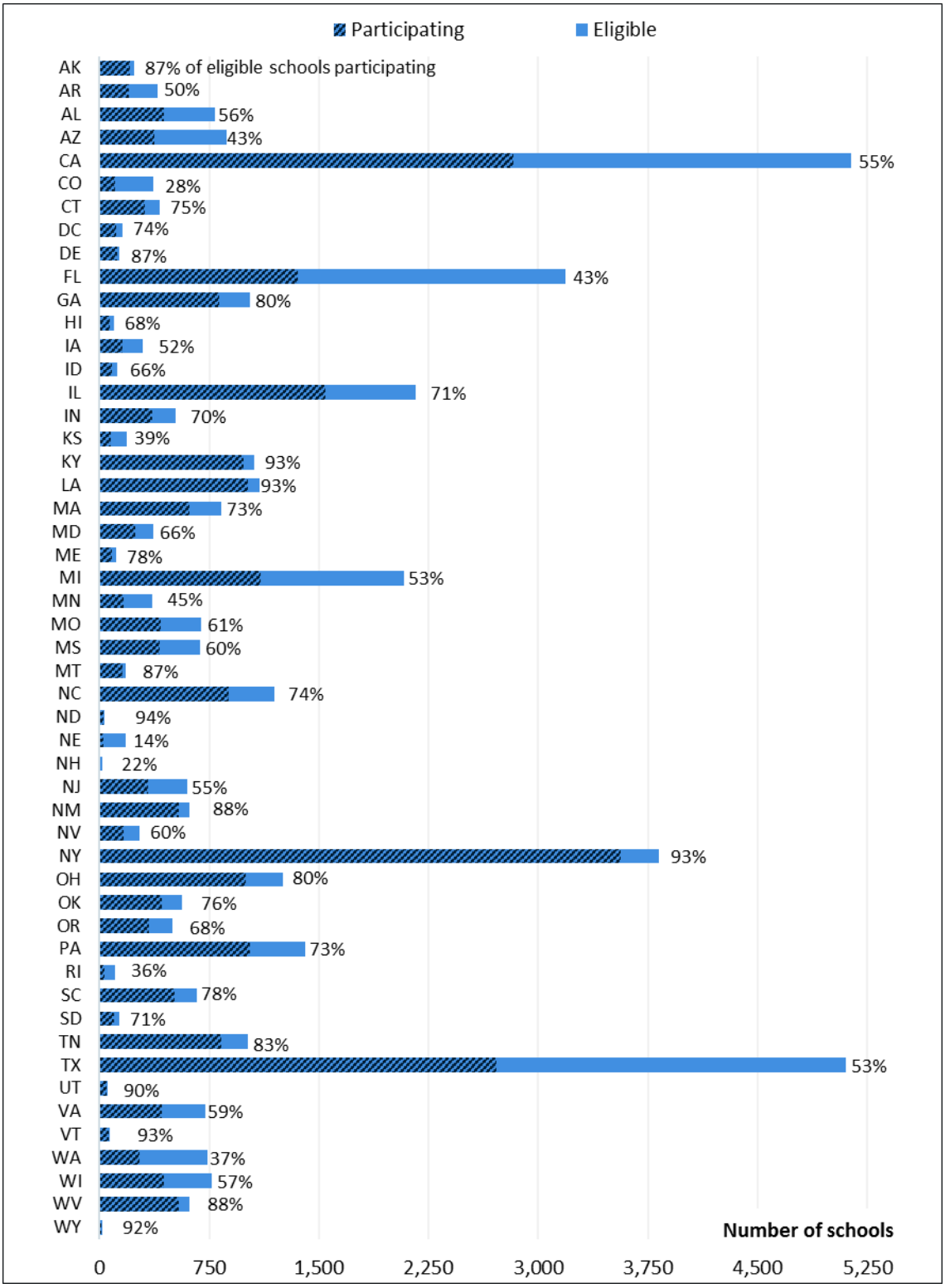
In some cases, CEP schools were a low proportion of NSLP schools because few schools were eligible for CEP. For example, Wyoming had a high uptake rate—11 out of 12 eligible schools participated in CEP in SY2018-2019—but CEP schools made up only 4% of NSLP schools. In other cases, not all eligible schools participated. In Nebraska, for instance, 26 out of 183 eligible schools (14%) participated in CEP, and CEP schools were 3% of NSLP schools in the state.

The percentage of eligible schools participating in CEP varied by state. States with the highest level of CEP uptake included New York, North Dakota, Kentucky, Louisiana, Vermont, and Wyoming, where the percentage of eligible schools participating in CEP exceeded 90%. States with low proportions of eligible schools participating included Colorado, Kansas, Nebraska, New Hampshire, Rhode Island, and Washington, which all fell below 40%.

Figure 5 shows the number of CEP-eligible schools in each state in SY2018-2019 and the percentage participating in CEP.

Figure 5. CEP-Eligible and Participating Schools in SY2018-2019, by State

Number of Eligible Schools and Percentage Participating in CEP



Source: CRS tabulations of FRAC's CEP Database for SY2018-2019.

Differences in CEP participation by state may be due to a variety of factors, including (1) outreach by private-sector organizations, state agencies, and FNS Regional Offices, (2) the quality of states' direct certification systems, (3) the presence of supportive state laws and policies, and (4) the year that CEP became available in the state.

State and private-sector outreach: USDA's evaluation of CEP participation in early implementation states found that "almost one-quarter of the eligible non-participating LEAs [local educational agencies] (24 percent) reported that they had not been informed about the CEP."[54] More recently, qualitative evidence collected by FRAC in SY2018-2019 suggested that high CEP participation rates in several states followed intensive outreach efforts by state agencies and advocacy organizations.[55]

Direct certification systems: As discussed earlier in this report, states have differing levels of progress in directly certifying children for school meals. States with more effective direct certification systems will likely have a larger number of CEP-eligible schools and may see higher levels of CEP uptake, as this would likely result in schools having higher ISPs and therefore higher federal reimbursements under CEP.

State laws and policies: Differences in CEP participation may also be affected by state laws and policies that promote adoption of CEP. For example, the Center on Budget and Policy Priorities (CBPP), a nonprofit research and advocacy organization, reported that CEP adoption was higher in states that issued clear guidance on how CEP schools would be treated under state funding formulas that relied on free and reduced-price meal data, and lower in states that did not provide such assurances.[56] Similarly, USDA's evaluation of CEP in early implementation states found that concern about federal and state education allocations were one of the largest perceived barriers to adoption of CEP.[57]

In the future, state laws may play an increasing role in CEP participation. As of the date of this report, two states had enacted state-level policies to facilitate greater adoption of CEP. California enacted a law in 2017 requiring all school districts, as of SY2018-2019, to apply to operate CEP or Provision 2 for all schools that have an ISP of 62.5% or higher.[58] Oregon enacted legislation in 2019 providing additional state funding for schools participating in CEP starting in SY2020-2021.[59]

Year of availability: The aforementioned ERS study examined whether the year that CEP became available in a state was associated with school district participation in CEP. The study found that, as of SY2015-2016, school districts in states that implemented CEP during the phase-

[54] USDA, FNS, *Community Eligibility Provision Evaluation*, February 2014, p. 48, https://www.fns.usda.gov/community-eligibility-provision-evaluation.

[55] FRAC, *Community Eligibility: The Key to Hunger-Free Schools: School Year 2018–2019*, May 2019, https://frac.org/research/resource-library/community-eligibility-the-key-to-hunger-free-schools-school-year-2018-2019.

[56] CBPP, *Community Eligibility Adoption Rises for the 2015–2016 School Year, Increasing Access to School Meals*, May 13, 2016, https://www.cbpp.org/research/food-assistance/community-eligibility-adoption-rises-for-the-2015-2016-school-year.

[57] USDA, FNS, *Community Eligibility Provision Evaluation*, February 2014, pp. 55-62, https://www.fns.usda.gov/community-eligibility-provision-evaluation.

[58] California Department of Education, "Senate Bill 138: Universal Meal Service," Bulletin No. CNP-02-2018, February 2018, https://www.cde.ca.gov/ls/nu/sn/mbsnp012018.asp.

[59] Oregon Department of Education, "Community Eligibility Provision Incentive Reimbursement Program," Rule No. 581-051-0610, April 23, 2020, https://secure.sos.state.or.us/oard/view.action?ruleNumber=581-051-0610.

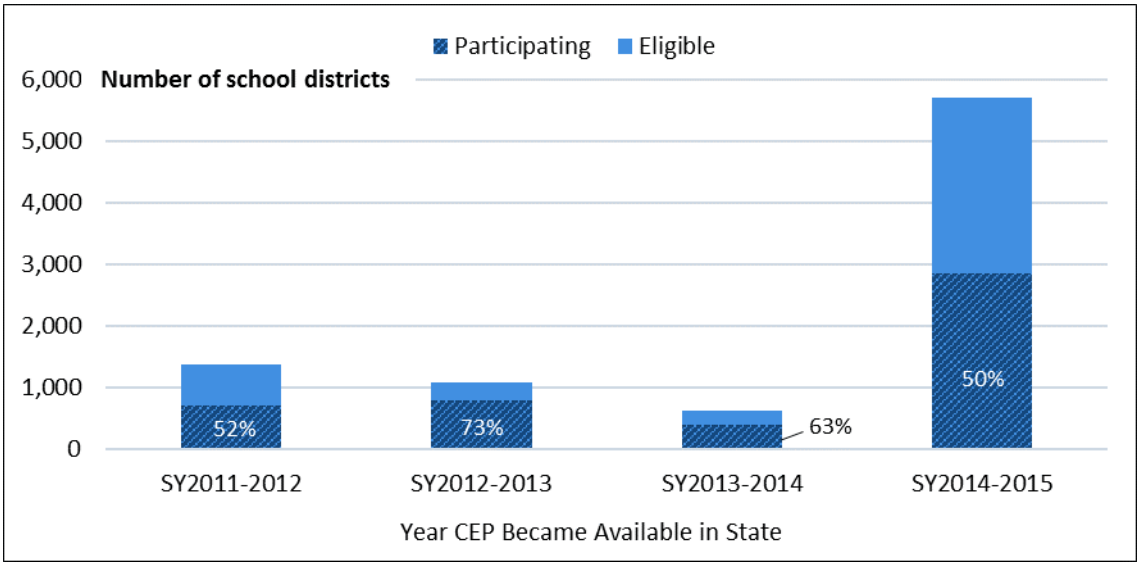
in period (which began in SY2011-2012) had statistically significantly higher participation rates compared to districts in states in which CEP became available in SY2014-2015.[60]

However, the ERS study examined participation only one year after CEP became available nationally, and it is possible that participation in the later-implementing states has increased since then. CRS's analysis of FRAC's CEP Database finds smaller but remaining differences in CEP participation in the phase-in states compared to states that gained access to CEP in SY2014-2015 (during national implementation). However, CEP uptake was similar among districts in states that gained access to CEP during the first year of implementation (SY2011-2012) and SY2014-2015 (**Figure 6**).

Higher CEP participation among districts in early implementation states may reflect unmeasured factors, such as more supportive state and local environments and more effective direct certification systems.

Figure 6. CEP Participation in SY2018-2019, By Year CEP Became Available in State

Number of Eligible Districts and Percentage Participating in CEP



Source: CRS tabulations of FRAC's CEP Database for SY2018-2019.

Notes: Eligible districts are defined as those with at least one CEP-eligible school. SY2011-2012 states: Illinois, Kentucky, and Michigan; SY2012-2013: DC, New York, Ohio, and West Virginia; SY2013-2014: Florida, Georgia, Maryland, and Massachusetts; SY2014-2015: all remaining states.

Examples from certain states illustrate how the factors discussed above may contribute to higher CEP participation rates. New York has the largest number of CEP schools and one of the highest levels of CEP uptake. CEP became available in New York in SY2012-2013, the second year of implementation. New York's high CEP participation rate is largely due to the fact that all New York City schools have adopted CEP as of SY2017-2018.[61] New York City's decision to adopt CEP reflects the importance of school administrator decisionmaking (local decision-making

[60] S. Rogus, J. Guthrie, and K. Ralston, *Characteristics of School Districts Offering Free School Meals to All Students Through the Community Eligibility Provision of the National School Lunch Program*, ERR-255, USDA, ERS, August 2018, https://www.ers.usda.gov/publications/pub-details/?pubid=89947.

[61] New York City schools made up approximately 68% of New York State's CEP-participating schools, according to CRS calculations using FRAC CEP data for SY2018-2019.

discussed further below), but also improvements to New York's direct certification system that resulted in increased ISPs for the city's schools (and higher reimbursement under CEP).[62]

Louisiana has a smaller number of CEP schools, but a similarly high rate of CEP uptake. Louisiana was not an early implementation state. Instead, the Louisiana Budget Project, a nonprofit advocacy organization, attributed Louisiana's high CEP participation to outreach by the Governor's office, advocacy groups, and local officials.[63] CBPP also noted in a 2016 report that Louisiana saw an increase in its number of CEP schools after the state clarified how CEP schools could use alternative data sources (instead of free and reduced-price meal data) for state education funding.[64]

District Type

There are close to 32,500 private schools in the United States, of which approximately 4,600 participate in NSLP.[65] Private schools that participate in the school meals programs have relatively low rates of participation in CEP compared to public schools, according to USDA's FNS-742 administrative data. As shown in **Table 6**, private school food authorities make up 19.7% of school food authorities in the school meals programs, but they make up 11.9% of school food authorities with at least one CEP school. Altogether, 14.8% of private school food authorities operated CEP for one or more schools in SY2018-2019, compared to 26.8% of public school food authorities.

There is limited research to explain why participation in CEP is lower among private school food authorities.[66] Private schools have a smaller proportion of students living in households near or below the federal poverty level compared to public schools, and therefore may be less likely to qualify for CEP.[67] Private schools are also smaller, on average, than public schools, which may contribute to lower levels of CEP participation given the previously discussed evidence that smaller districts participate in CEP at lower rates.[68]

[62] Hunger Solutions New York, "New York City Announces School Lunch is Free for Every Public School Student," https://hungersolutionsny.org/new-york-city-announces-school-lunch-free-every-public-school-student.

[63] Louisiana Budget Project, "Record Number of Eligible Louisiana Schools Provide Meals to all Enrolled Students this School Year," December 5, 2018, https://www.labudget.org/2018/12/record-number-of-eligible-louisiana-schools-provide-meals-to-all-enrolled-students-this-school-year.

[64] CBPP, *Community Eligibility Adoption Rises for the 2015–2016 School Year, Increasing Access to School Meals*, May 13, 2016, https://www.cbpp.org/research/food-assistance/community-eligibility-adoption-rises-for-the-2015-2016-school-year.

[65] U.S. Department of Education (ED), National Center for Education Statistics (NCES), Private School Universe Survey (PSS), 2017–18, "Table 15. Number of private schools, students, full-time equivalent (FTE) teachers, and 2016-17 high school graduates, by state: United States, 2017–18," https://nces.ed.gov/surveys/pss/tables/TABLE15fl1718.asp; As of October 2019, there were 89,664 public schools and 4,606 private schools participating in NSLP and 85,251 public schools and 2,742 private schools participating in SBP, according to CRS communication with FNS on July 1, 2019.

[66] USDA's CEP evaluation and the ERS study did not include data on private schools.

[67] ED, NCES, *School Choice in the United States: 2019*, NCES 2019-106, September 2019, https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2019106.

[68] ED, NCES, *Characteristics of Private Schools in the United States: Results from the 2015-16 Private School Universe Survey: First Look*, 2017, https://nces.ed.gov/pubs2017/2017073.pdf.

Table 6. Public Versus Private School District Participation in CEP, SY2018-2019

	Number of SFAs	Percentage of SFAs	Number of SFAs with at Least One CEP School	Percentage of SFAs with at Least One CEP School
Public	15,190	80.3%	4,071	89.1%
Private	3,735	19.7%	551	11.9%
Total	18,925	100.0%	4,622	100.0%

Source: CRS tabulations of USDA FNS-742 administrative data for SY2018-2019.

There is some evidence to suggest that charter schools may participate in CEP at higher rates. Charter schools are public schools that operate independently from a state's public school system, and they typically manage one school (regular districts usually oversee multiple schools).[69] There are approximately 7,000 charter schools in the United States.[70] USDA's evaluation of CEP early implementation states found that charter schools had slightly higher participation rates than regular schools.[71] The study's interviews with state child nutrition program staff indicated that "charter schools generally did not face the problem confronted by regular public school districts … that the CEP would result in reallocating funds away from the schools with the highest concentrations of students in poverty."[72]

Charter schools and districts are more common in some states than others. The District of Columbia, for example, has one large regular school district and 59 charter districts. More than half of the districts in Utah, Arizona, Louisiana, Delaware, and North Carolina are independent charter districts.[73]

District Location

The ERS study of CEP participation in SY2015-2016 found no statistically significant difference between urban and rural districts' CEP participation when other factors (such as district size) were held constant. The study found that suburban districts were slightly less likely to participate in CEP than rural districts, which the authors said "should be explored in future research."[74] Similarly, USDA's evaluation of early implementation states found no statistically significant difference in participation among urban versus other types of schools.

[69] 88% of all independent charter districts manage one school compared with 16% of regular districts. CRS tabulations of ED, NCES, CCD Data, SY2016-2017.

[70] ED, NCES, CCD, "Public Elementary/Secondary School Universe Survey," 1990-91 through 2016-17, https://nces.ed.gov/programs/digest/d18/tables/dt18_216.20.asp.

[71] USDA, FNS, *Community Eligibility Provision Evaluation*, February 2014, p. 88, https://www.fns.usda.gov/community-eligibility-provision-evaluation.

[72] Ibid, p. 58. Title I-A allocations to charter schools that operate their own local educational agencies are based on Census Small Area Income and Poverty Estimates (SAIPE) data.

[73] CRS tabulations of ED, NCES, CCD, "Public Elementary/Secondary School Universe Survey" for SY2017-2018.

[74] S. Rogus, J. Guthrie, and K. Ralston, *Characteristics of School Districts Offering Free School Meals to All Students Through the Community Eligibility Provision of the National School Lunch Program*, ERR-255, USDA, ERS, August 2018, p. 19, https://www.ers.usda.gov/publications/pub-details/?pubid=89947.

Local Decisionmaking

Differences in local decisionmaking likely influence CEP participation. According to USDA's evaluation of early implementation states, administrator support was associated with a higher likelihood of adopting CEP. Specifically, the study found that "LEA [local educational agency] leadership had to be comfortable with and supportive of an initiative that involved change and uncertainties."[75] Financial considerations, the administrative capacity of the district, and the poverty of the community were all factors that local administrators considered when choosing whether to adopt CEP.[76] The study also found that the local decisionmakers most frequently involved in the local educational agency's choice to participate in CEP were school boards, superintendents, and food service directors.[77]

Conclusion

CEP is an option within NSLP and SBP statute designed to enable high poverty schools to eliminate household applications and receive an alternative federal funding formula if they provide free meals to all students. An increasing number of schools and districts have adopted CEP since it became available nationwide in SY2014-2015.

The data in this report show CEP participation varies substantially across states. The data also show that the highest poverty schools—those with ISPs between 80% and 100%—are less likely to adopt CEP than schools with slightly lower ISPs. Finally, the data show that public districts and large districts adopt CEP at higher rates than private and small school districts.

Research helps to explain some of these patterns. Differences in participation by state have been attributed to differences in state outreach, policies, and direct certification systems, among other factors. Differences in participation by ISP may be a result of the fact that schools with very high ISPs are smaller and thus may be less likely to adopt CEP.

There were at least 15,000 schools that were eligible for, but did not participate, in CEP in SY2018-2019. CEP participation may continue to increase in the coming years if more eligible schools decide to participate. Other factors could cause CEP participation to decrease, such as if SNAP participation declines. The future of CEP will be informed both by its reception among students and families and by decisions made by local, state, and federal decisionmakers and policymakers.

[75] USDA, FNS, *Community Eligibility Provision Evaluation*, February 2014, p. 58, https://www.fns.usda.gov/community-eligibility-provision-evaluation.

[76] Ibid, p. 52.

[77] Ibid, p. 44.

Appendix A. Available CEP Data and Limitations

FRAC CEP Database

The Food Research and Action Center (FRAC) is a national nonprofit research and anti-hunger advocacy organization.[78] Since SY2015-2016, FRAC has collected annual data on the CEP eligibility and participation status of schools nationwide. FRAC's CEP Database also includes data collected by the Center on Budget and Policy Priorities (CBPP) for SY2014-2015. The data collection has been done in consultation with FNS, which does not administer its own CEP data collection in an effort to minimize reporting burdens for states. FNS recognizes FRAC's CEP Database as the best source of national school-level CEP data.[79]

FRAC compiles CEP eligibility data from state agencies, which are required by law to report a list of CEP-eligible and near-eligible schools by May 1 of each year.[80] FRAC completes a subsequent data collection from September through February to obtain each school's CEP participation status, consults with schools about potentially erroneous or missing data, and then publishes the resulting file online.[81]

The dataset has a few limitations. First, the universe is limited to CEP-eligible, near-eligible, and participating schools; it does not capture every NSLP- and SBP-participating school. Second, in the earlier years of CEP (SY2014-2015 and SY2015-2016), some school districts reported higher ISPs than they actually had (for example, eight schools had ISPs above 100%, which are not possible). CRS attempted to correct for this issue by removing ISPs over 100%, but it is possible that there are an unknown number of schools with ISPs below 100% that were falsely reported. Therefore, the CEP eligibility data for SY2014-2015 and SY2015-2016 in this report should be viewed as more imprecise than data from subsequent years. There was also a relatively small number of schools with missing ISPs.

USDA FNS-742 Administrative Data

The FNS-742 is a standard form that must be completed by school food authorities and submitted to the state agency by December of each year. The state agency then compiles the forms and provides the resulting statewide dataset to USDA by April. USDA uses the dataset primarily to monitor states' verification activities—an annual process through which school districts verify the accuracy of a sample of approved household applications. However, the FNS-742 form also includes descriptive data on the number of schools participating in CEP and the other special provisions.

CRS used the FNS-742 data to compare the number of schools operating CEP with schools operating traditional school meal programs or other special provisions. There are two notable limitations to this dataset: (1) it does not include CEP eligibility, only the number of schools participating in the program, and (2) FRAC's participation data are reported at the local educational agency level, which is the entity that makes the decision to opt in to CEP, whereas USDA's data are reported at the school food authority level. In addition, FRAC's data are slightly

[78] FRAC, "What We Do," https://frac.org/about/what-we-do.

[79] CRS correspondence with USDA in January 2020.

[80] Section 11(a)(1)(F)(x)(IV) of the Richard B. Russell National School Lunch Act (codified at 42 U.S.C. 1759a(a)(1)(F)(x)(IV)).

[81] CRS correspondence with FRAC and USDA in January 2020.

more current (USDA's data are collected from October through December, whereas FRAC's data are collected from September through February).

Appendix B. CEP Participation by State

Table B-1. CEP Participation by State, SY2018-2019

Number of CEP Districts and Schools and CEP Schools as a Percentage of NSLP Schools

State	Number of School Districts with at Least One CEP-Participating School (SY2018-2019)	Number of CEP-Participating Schools (SY2018-2019)	Number of NSLP Schools (October 2019)	CEP Schools as a Percentage of NSLP Schools
Alabama	46	444	1,333	33%
Alaska	30	208	399	52%
Arizona	153	372	1,761	21%
Arkansas	63	201	1,056	19%
California	289	2,833	9,561	30%
Colorado	82	105	1,735	6%
Connecticut	36	307	994	31%
Delaware	23	119	228	52%
District of Columbia	37	117	231	51%
Florida	188	1,356	3,851	35%
Georgia	106	818	2,278	36%
Hawaii	16	69	282	24%
Idaho	23	82	654	13%
Illinois	248	1,541	3,925	39%
Indiana	72	362	2,031	18%
Iowa	22	156	1,288	12%
Kansas	7	75	1,343	6%
Kentucky	160	984	1,283	77%
Louisiana	121	1,016	1,467	69%
Maine	30	87	589	15%
Maryland	15	242	1,454	17%
Massachusetts	83	613	1,923	32%
Michigan	300	1,105	3,241	34%
Minnesota	65	163	1,945	8%
Mississippi	59	410	875	47%
Missouri	99	420	2,378	18%
Montana	56	157	763	21%
Nebraska	13	26	898	3%
Nevada	12	167	617	27%
New Hampshire	4	4	429	1%

State	Number of School Districts with at Least One CEP-Participating School (SY2018-2019)	Number of CEP-Participating Schools (SY2018-2019)	Number of NSLP Schools (October 2019)	CEP Schools as a Percentage of NSLP Schools
New Jersey	84	331	2,814	12%
New Mexico	121	546	842	65%
New York	379	3,565	5,540	64%
North Carolina	102	882	2,531	35%
North Dakota	21	29	394	7%
Ohio	322	998	3,392	29%
Oklahoma	125	427	1,848	23%
Oregon	78	341	1,249	27%
Pennsylvania	205	1,031	3,208	32%
Rhode Island	6	37	328	11%
South Carolina	59	515	1,162	44%
South Dakota	27	97	658	15%
Tennessee	91	836	1,779	47%
Texas	327	2,716	8,206	33%
Utah	13	52	937	6%
Vermont	22	62	315	20%
Virginia	62	428	1,900	23%
Washington	72	273	2,102	13%
West Virginia	52	540	659	82%
Wisconsin	110	438	2,361	19%
Wyoming	6	11	297	4%
United States	**4,742**	**28,714**	**94,457**	**30%**

Source: CRS tabulations of FRAC's CEP Database for SY2018-2019. The number of NSLP schools by state was provided by USDA on April 24, 2020; it was collected in October 2019 and updated on an ongoing basis.

Notes: There are a small number of schools nationwide that participate in SBP but not NSLP, which are not reflected in these estimates. CEP schools must participate in both NSLP and SBP. The total number of NSLP schools in the United States includes schools in territories (not shown).

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