

## ARTICLE 67-08 HOMELESS CHILDREN EDUCATION

Chapter  
67-08-01                      Homeless Children Education

Chapter 67-08-01  
Homeless Children Education

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### **67-08-01-01. Purpose.**

The purpose of this chapter is to facilitate the enrollment of homeless children of school age and, where appropriate, of preschool age in the public-school districts of North Dakota to enable the children to have access to a free, appropriate public school education, and to be free of being stigmatized on the basis of their status as homeless.

**History:** Effective May 1, 1992, Amended (*date rules take effect*).

**General Authority:** NDCC 15-47-01.1 15.1-19-08, 28-32-02

**Law Implemented:** NDCC 15-47-01.1 15.1-19-08

### **67-08-01-02. ~~Definition~~ Definitions.**

~~In this article and for the purposes of North Dakota Century Code section 15-47-01.1, "homeless child or youth" means a child or youth between the ages of six and eighteen who lacks a fixed, regular and adequate nighttime residence and includes a child or youth who is living on the street, in a car, tent, abandoned building, some other form of shelter not designed as a permanent home, or who is living in a community shelter facility.~~

1. "District of origin" is defined as the public school district in North Dakota in which the child was last enrolled or which the child last attended when permanently housed.
2. "Guardian" is defined as a person of majority age with whom a homeless child or youth of school age is living or a person of majority age who has accepted responsibility for the homeless child or youth, whether or not the person has legal guardianship over the child or youth.
3. "Homeless child or youth" is defined as a child or youth from the age of 3 years through 21 years who lacks a fixed, regular, and adequate nighttime residence and includes the following:
  - a. A child or youth who is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; is living in a motel, hotel, trailer park, or camping grounds due to the lack of alternative adequate

accommodations; is living in an emergency or transitional shelter; or is abandoned in a hospital;

b. A child or youth who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

c. A child or youth who is living in a car, park, public space, abandoned building, substandard housing, bus or train station, or similar setting; or

d. A migratory child or youth who qualifies as homeless because the child or youth is living in circumstances described in subdivisions a, b, and c of subsection 3 of this section

4. "Preschool child" is defined as a child who is three, four, or five years of age before September fifteenth of the current school year.
5. "School of origin" is defined as the school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled, including a preschool. When the child or youth completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools.
6. "Unaccompanied youth" is defined as a youth not in the physical custody of a parent or guardian.

**History:** Effective May 1, 1992, Amended (*date rules take effect*).

**General Authority:** NDCC 15-47-01.1 15.1-19-08, 28-32-02

**Law Implemented:** NDCC 15-47-01.1 15.1-19-08

### **67-08-01-03. Responsibility.**

A public school district must:

1. ~~Provide an appropriate free public school education to a homeless child or youth who is found within the district, whether or not the child or youth is enrolled in school.~~
2. ~~Post information at community shelters and other locations in the district (where services or assistance is provided to the homeless) encouraging homeless children of school age to enroll in the public school.~~
3. ~~Examine and revise, if necessary, existing school policies or rules that create barriers to the enrollment of homeless children, consistent with this chapter.~~

Each district in North Dakota shall do all of the following:

1. Locate and identify children and youth experiencing homelessness within the district, whether or not they are enrolled;
2. Post Notice of Rights, which provides information regarding the educational rights of children and youth experiencing homelessness, in all school buildings as well as other

locations in the district where services or assistance is provided to those experiencing homelessness.

3. Shall examine and revise, if necessary, existing school policies or rules that create barriers to the enrollment of children or youth experiencing homelessness. Examination and revision include identifying and removing barriers that prevent such children and youth from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with state, local, and school policies. Examination and revision also include ensuring that homeless children and youth who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities, including magnet school, summer school, career and technical education, advanced placement, online learning, and charter school programs, if such programs are available at the state and local levels. School districts are encouraged to cooperate with agencies and organizations for the homeless to explore comprehensive, equivalent alternative educational programs and support services for children and youth experiencing homelessness to implement the intent of these rules
4. Shall enact a policy prohibiting the segregation of children and youth experiencing homelessness from other students enrolled in the public-school district.
5. Shall immediately enroll a child or youth experiencing homelessness, pending resolution of any dispute regarding in which school the child or youth shall be enrolled
6. Shall determine school placement based on the best interests of a child or youth experiencing homelessness. Shall, to the extent feasible, keep a child or youth who is experiencing homelessness in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parents or guardian. If the child or youth becomes permanently housed during an academic year, enrollment shall continue in the school of origin for the remainder of that academic year unless the parents agree otherwise.
7. The district shall designate an appropriate staff person as local homeless liaison who is able and has been trained to carry out the following duties:
  - a. Ensure that children and youth experiencing homelessness are identified by school personnel through outreach and coordination activities with other entities and agencies;
  - b. Ensure that children and youth experiencing homelessness are enrolled in, and have a full and equal opportunity to succeed in, schools of the district;
  - c. Ensure that families, children and youth experiencing homelessness receive educational services for which they are eligible including services through Head Start programs, including Early Head Start programs, under the Head Start Act [42 U.S.C. Section 9831, et seq.], early intervention services under Part C of the Individuals with Disabilities Education Act [20 U.S.C. Section 1431, et seq.], and other preschool programs administered by the district, and referrals to health care services, dental services, mental health services, and other appropriate services;
  - d. Ensure that families and children and youth experiencing homelessness receive referrals to health care services, dental services, mental health and substance abuse services, housing services, and other appropriate services;

- e. Ensure that the parents or guardians of children and youth experiencing homelessness are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;
- f. Ensure that public notice of the educational rights of children and youth experiencing homelessness are disseminated in locations frequented by parents or guardians of such children and youth, and unaccompanied youth, including schools, shelters, public libraries and soup kitchens, in a manner and form understandable to the parents and guardians of children and youth experiencing homelessness and unaccompanied youth;
- g. Ensure enrollment disputes are mediated in accordance with U.S.C. Section 11432(g)(3)(E), which requires the following:
  - 1. The child or youth shall be immediately enrolled in the school in which enrollment is sought, pending resolution of the dispute;
  - 2. The parent or guardian of the child or youth shall be provided written explanation of the school's decision regarding school selection or enrollment, including the rights of the parents, guardian or youth to appeal the decision;
  - 3. In the case of an unaccompanied youth, the local educational agency liaison shall ensure that the youth is immediately enrolled in the school in which enrollment is sought pending resolution of the dispute.
- h. Ensure that the parent or guardian of a child or youth experiencing homelessness, or the unaccompanied youth, is fully informed of all transportation services and is assisted in accessing transportation to the school of enrollment;
- i. Ensure that school personnel receive professional development and other support;
- j. Ensure that unaccompanied youth:
  - 1. Are enrolled in school;
  - 2. Have opportunities to meet the same challenging academic standards as are established for other children and youth, including implementation of the procedures under the Every Student Succeeds Act; and
  - 3. Are informed of their status as independent student under Section 480 of the Higher Education Act of 1965 [20 U.S.C. 1087vv] and that the youth may obtain assistance from the local educational agency liaison to receive verification of such status for the purposes of the Free Application for Federal Student Aid described in Section 483 of such Act [20 U.S.C. 1090]; and
- k. Coordinate and collaborate with state coordinator and community and school personnel responsible for the provision of education and related services to children and youth experiencing homelessness

**History:** Effective May 1, 1992, Amended (*date rules take effect*).

**General Authority:** NDCC ~~15-47-01.1~~ 15.1-19-08, 28-32-02

**Law Implemented:** NDCC ~~15-47-01.1~~ 15.1-19-08; 42 U.S.C. Section 9831, et seq., 20 U.S.C. Section 1431, et seq., U.S.C. Section 11432(g)(3)(E), 20 U.S.C. 1087vv. 20 U.S.C. 1090, P.L. 114-95

**67-08-01-04. Accountability.**

District must include homeless students in its academic assessment and accountability system under the federal Every Student Succeeds Act [P.L. 114-95]. A district must report disaggregated data regarding the academic achievement and graduation rates for homeless children, as required by Section 1111 of the Every Student Succeeds Act.

**History:** Effective (*date rules take effect*).

**General Authority:** 15.1-19-08, 28-32-02

**Law Implemented:** 15.1-19-08; P.L. 114-95

## CHAPTER 67-11-10 EMOTIONAL DISTURBANCE TEACHER CREDENTIAL

[Repealed effective (date rules take effect)]

### Section

~~67-11-10-01 Credentials Required~~  
~~67-11-10-02 Issuing Agency~~  
~~67-11-10-03 Credential Standards~~  
~~67-11-10-04 Types of Credentials~~  
~~67-11-10-05 Application Process~~  
~~67-11-10-06 Renewal Requirements~~  
~~67-11-10-07 Notification of Denial~~  
~~67-11-10-08 Effective Dates~~

### **~~67-11-10-01. Credentials required.~~**

~~For purposes of school accreditation, a school that educates a student with emotional disturbance must employ teachers who hold the North Dakota teacher of students with emotional disturbance credential as outlined in this chapter or who have been authorized by the education standards and practices board in this specialty at a level the department determines meets or exceeds the requirements of this chapter and is consistent with the North Dakota teacher education program approval standards 2000 with 2002 revisions adopted by the education standards and practices board on August 1, 2002.~~

**~~History:~~** ~~Effective February 1, 2000; amended effective July 1, 2003.~~

**~~General Authority:~~** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

**~~Law Implemented:~~** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

### **~~67-11-10-02. Issuing agency.~~**

~~The North Dakota special education teaching credential in emotional disturbance issuing agency address is:~~

~~Superintendent of Public Instruction  
Department of Public Instruction  
600 East Boulevard Avenue, Dept. 201  
Bismarck, ND 58505-0440~~

**~~History:~~** ~~Effective February 1, 2000.~~

**~~General Authority:~~** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

**~~Law Implemented:~~** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

### **~~67-11-10-03. Credential standards.~~**

~~Each applicant for a teacher of students with emotional disturbance credential must meet the standards in this section. The documentation on each standard must be verified by the department before any special education credential is issued. The standards are as follows:~~

1. Areas of preparation of teachers in emotional disturbance include the coursework listed in this subdivision. The coursework must be taken primarily at the graduate level from a college or university with accreditation in this area and offering a major in special education that includes study in the areas listed in this subdivision. Because not all of these are course titles, applicants must have their transcripts and course content evaluated by the department of public instruction staff. All candidates who are to be employed as emotional disturbance teachers must hold either an elementary, middle level, or secondary educator's professional license. Emotional disturbance teachers with a secondary educator's professional license must have an elementary mathematics methods and an elementary reading methods course and must complete a practicum in emotional disturbance as outlined by the applicant's college or university. The final practicum in working with children with emotional disturbance must be provided after other qualifications are met. If the practicum is offered in two units, both the initial practicum and the advanced practicum must be completed to meet this requirement. Including the hours attributable to the practicum, the applicant must take the equivalent of at least twenty-four semester hours of graduate credit. The additional credits must include coursework in each of these areas:

- (1) Exceptional children and youth.
- (2) Introduction to the area of emotional disturbance, which includes psychopathology of childhood and adolescence.
- (3) Methods of teaching children with emotional disturbance.
- (4) Developmental psychology.
- (5) Behavior management, which typically includes a study of student reaction to frustration, response to failure, emotional problems, and ways of managing problems in the classroom.
- (6) Assessment and test interpretation of children and youth with disabilities. This course must contain considerable experience in the use of information from tests as they relate to curriculum, adjustment, and behavior.
- (7) Methods and materials in specific learning disabilities. It is typical that the course will describe the intent of materials, modifying and adapting materials, problem-solving methods, interventions including behavior modification and other applied learning theory; or specific learning disability practicum.
- (8) Interdisciplinary and community resources and consultation skills.
- (9) Family or home school relations.
- (10) Guidance or educational alternatives.

b. For students completing a four-year undergraduate degree from a university with appropriate accreditation in this area, two additional graduate-level courses

~~will be required and must include an advanced seminar in emotional disturbance and emotional disturbance practicum.~~

~~2. An applicant must have:~~

- ~~a. A valid North Dakota educator's professional license issued by the education standards and practices board in accordance with North Dakota Century Code sections 15.1-13-10, 15.1-13-11, and 15.1-13-23 and North Dakota Administrative Code title 67.1, based on a bachelor's degree with a certifiable major or minor or an endorsement in elementary, middle level, or secondary education; and~~
- ~~b. Meet education standards and practices board specialty area standards for teachers of students with emotional disturbance as set out in North Dakota teacher education program approval standards 2000 with 2002 revisions adopted effective August 1, 2002.~~

**History:** ~~Effective February 1, 2000; amended effective July 1, 2003; January 1, 2008.~~

**General Authority:** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

**Law Implemented:** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

**67-11-10-04. Types of credentials.**

~~1. The professional credential is issued and is valid for the same period as the educator's professional license.~~

~~2. Tutor in training. A letter of approval for a tutor in training is issued and is valid for one school year. The letter of approval may be renewed for up to three consecutive years. Persons seeking authorization to work under a tutor in training approval as an emotional disturbance teacher must:~~

- ~~a. Have an offer of employment or be employed as a teacher of students with emotional disturbance in a North Dakota school; and~~
- ~~b. Provide documentation of:~~
  - ~~(1) Two school years of general education teaching experiences;~~
  - ~~(2) Current teacher certification or licensure;~~
  - ~~(3) A program of study based on the standards identified in section 67-11-10-03 outlined by a college or university with an accredited training program;~~
  - ~~(4) Provide a document prepared by the school district that describes the need for the position and the plan of supervision of the tutor in training;~~
  - ~~(5) A statement signed by the proposed supervisor who must be certified as an emotional disturbance teacher in North Dakota; and~~



~~(6) A copy of current transcripts documenting successful completion of a minimum of eight semester hours of applicable coursework.~~

**History:** Effective February 1, 2000; amended effective July 1, 2003; January 1, 2008.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**67-11-10-05. Application process.**

~~The application process to obtain a credential under this chapter is:~~

~~1. A special education credential application form provided by the department of public instruction must be submitted for the emotional disturbance credential. Information including the date and the applicant's name, social security number, address, telephone number, educator's professional license number and expiration date, signature, and academic preparation is required in the application.~~

~~2. A copy of official transcripts must be provided.~~

**History:** Effective February 1, 2000; amended effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**67-11-10-06. Renewal requirements.**

~~To renew the emotional disturbance credential, the teacher shall:~~

~~1. Complete the requirements established by the North Dakota education standards and practices board relative to renewal of the North Dakota educator's professional license. The special education credential follows the expiration date established by the education standards and practices board. No further action is required on the part of the teacher to renew special education credentials that are renewed on a continuing basis.~~

~~2. In those instances in which a lapse of the applicant's educator's professional license of more than ten years has occurred prior to renewal, the special education credential application will be reviewed to assure that all special education requirements have been met.~~

**History:** Effective February 1, 2000; amended effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**67-11-10-07. Notification of denial.**

~~If issuance of any credential is denied, the denial must be in writing and must state all reasons for denial. The written documentation must also include the specific requirements from section 67-11-10-03 which must be completed for reconsideration.~~

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**~~67-11-10-08. Effective dates.~~**

~~The issuance of credentials through September 30, 1999, and from October 1, 1999, is as follows:~~

~~1. Issuing new credentials:~~

~~a. Through September 30, 1999, credentials may be issued based on both the previous standards identified in the guide I laws, policies and regulations for special education for exceptional children (1993) published by the department of public instruction or the new standards and procedures provided in this chapter.~~

~~b. Effective on February 1, 2000, all credentials will be issued based on the standards and procedures provided in this chapter.~~

~~2. Renewing existing credentials. Effective on February 1, 2000, all credential renewals must be based on the standards and procedures provided in this chapter.~~

**~~History:~~** ~~Effective February 1, 2000.~~

**~~General Authority:~~** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

**~~Law Implemented:~~** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

## CHAPTER 67-11-12 PHYSICAL DISABILITIES TEACHER CREDENTIAL

[Repealed effective (date rules take effect)]

### Section

67-11-12-01 Credentials Required  
67-11-12-02 Issuing Agency  
67-11-12-03 Credential Standards  
67-11-12-04 Types of Credentials  
67-11-12-05 Application Process  
67-11-12-06 Renewal Requirements  
67-11-12-07 Notification of Denial  
67-11-12-08 Effective Dates

### **67-11-12-01. Credentials required.**

For purposes of school accreditation, a school that educates students with physical disabilities must employ teachers who hold the North Dakota teacher of students with physical disabilities credential as outlined in this chapter or who have been authorized by the education standards and practices board in this specialty at a level the department determines meets or exceeds the requirements of this chapter and is consistent with the North Dakota teacher education program approval standards 2000 with 2002 revisions adopted by the education standards and practices board on August 1, 2002.

**History:** Effective February 1, 2000; amended effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

### **67-11-12-02. Issuing agency.**

The North Dakota special education teaching credential in physical disabilities issuing agency address is:

Superintendent of Public Instruction  
Department of Public Instruction  
600 East Boulevard Avenue, Dept. 201  
Bismarck, ND 58505-0440

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

### **67-11-12-03. Credential standards.**

Each applicant for a teacher of students with physical disabilities credential must meet the standards in this section. The documentation on each standard must be verified by the department before any special education credential is issued.

1. Prior to August 1, 2003, the standards are as follows:

a. ~~An applicant must hold a valid North Dakota educator's professional license issued by the education standards and practices board in accordance with North Dakota Century Code sections 15.1-13-10, 15.1-13-11, and 15.1-13-23 and North Dakota Administrative Code title 67.1, based on a bachelor's degree with a certifiable major or minor or an endorsement in elementary or secondary education.~~

b. ~~Areas of preparation of teachers for students with physical disabilities include the coursework listed in this subdivision. The coursework must be taken from a college or university with accreditation in this area and offering a major in special education that includes study in the areas listed in this subdivision. Because not all of these are course titles, applicants must have their transcripts and course content evaluated by the department of public instruction staff. All candidates who are to be employed as physical disabilities teachers must hold either a general elementary or secondary educator's professional license. The credential requires at least three semester hours of credit in each of these areas:~~

~~(1) Exceptional children and youth.~~

~~(2) Introduction to physical disabilities or orthopedics for teachers.~~

~~(3) Methods and materials in teaching students with physical disabilities.~~

~~(4) At least one full course in another area of exceptionality.~~

~~(5) Student teaching in the area of physical disabilities.~~

2. ~~After July 31, 2003, an applicant must:~~

a. ~~Hold a valid North Dakota educator's professional license issued by the education standards and practices board in accordance with North Dakota Century Code sections 15.1-13-10, 15.1-13-11, and 15.1-13-23 and North Dakota Administrative Code title 67.1, based on a bachelor's degree with a certifiable major or minor or an endorsement in elementary or secondary education; and~~

b. ~~Meet education standards and practices board specialty area standards for this specialty as set out in North Dakota teacher education program approval standards 2000 with 2002 revisions adopted effective August 1, 2002.~~

**History:** ~~Effective February 1, 2000; amended effective July 1, 2003.~~

**General Authority:** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

**Law Implemented:** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

#### **67-11-12-04. Types of credentials.**

~~The professional credential is issued and is valid for the same period as the educator's professional license.~~

**History:** ~~Effective February 1, 2000; amended effective July 1, 2003.~~

**General Authority:** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

**Law Implemented:** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

**67-11-12-05. Application process.**

The application process to obtain a credential under this chapter is:

1. A special education credential application form provided by the department of public instruction must be submitted for the physical disabilities credential. Information including the date and the applicant's name, social security number, address, telephone number, educator's professional license number and expiration date, signature, and academic preparation are required in the application.
2. A copy of official transcripts must be provided.

**History:** Effective February 1, 2000; amended effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**67-11-12-06. Renewal requirements.**

To renew the physical disabilities credential, the teacher shall:

1. Complete the requirements established by the North Dakota education standards and practices board relative to renewal of the North Dakota educator's professional license. The special education credential follows the expiration date established by the education standards and practices board. No further action is required on the part of the teacher to renew a special education credential that is renewed on a continuing basis.
2. In those instances in which a lapse of the applicant's educator's professional license of more than ten years has occurred prior to renewal, the special education credential application will be reviewed to assure that all special education requirements have been met.

**History:** Effective February 1, 2000; amended effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**67-11-12-07. Notification of denial.**

If issuance of any credential is denied, the denial must be in writing and must state all reasons for denial. The written documentation must also include the specific requirements from section 67-11-12-03 which must be completed for reconsideration.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**~~67-11-12-08. Effective dates.~~**

The issuance of credentials through September 30, 1999, and from October 1, 1999, is as follows:

~~1. Issuing new credentials:~~

- ~~a. Through September 30, 1999, credentials may be issued based on both the previous standards identified in the guide I laws, policies and regulations for special education for exceptional children (1993) published by the department of public instruction or the new standards and procedures provided in this chapter.~~
- ~~b. Effective on February 1, 2000, all credentials will be issued based on the standards and procedures provided in this chapter.~~

~~2. Renewing existing credentials. Effective on February 1, 2000, all credential renewals must be based on the standards and procedures provided in this chapter.~~

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

## CHAPTER 67-11-13 SPECIFIC LEARNING DISABILITIES TEACHER CREDENTIAL

[Repealed effective (date rules take effect)]

### Section

~~67-11-13-01 Credentials Required~~  
~~67-11-13-02 Issuing Agency~~  
~~67-11-13-03 Credential Standards~~  
~~67-11-13-04 Types of Credentials~~  
~~67-11-13-05 Application Process~~  
~~67-11-13-06 Renewal Requirements~~  
~~67-11-13-07 Notification of Denial~~  
~~67-11-13-08 Effective Dates~~

### **~~67-11-13-01. Credentials required.~~**

~~For purposes of school accreditation, a school that educates a student with specific learning disabilities must employ teachers who hold the North Dakota teacher of students with specific learning disabilities credential as outlined in this chapter or who have been authorized by the education standards and practices board in this specialty at a level the department determines meets or exceeds the requirements of this chapter and is consistent with the North Dakota teacher education program approval standards 2000 with 2002 revisions adopted by the education standards and practices board on August 1, 2002.~~

**~~History:~~** Effective February 1, 2000; amended effective July 1, 2003.

**~~General Authority:~~** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**~~Law Implemented:~~** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

### **~~67-11-13-02. Issuing agency.~~**

~~The North Dakota special education teaching credential in specific learning disabilities issuing agency address is:~~

~~Superintendent of Public Instruction  
Department of Public Instruction  
600 East Boulevard Avenue, Dept. 20  
Bismarck, ND 58505-0440~~

**~~History:~~** Effective February 1, 2000.

**~~General Authority:~~** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**~~Law Implemented:~~** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

### **~~67-11-13-03. Credential standards.~~**

~~Each applicant for a teacher of students with specific learning disabilities credential must meet the standards in this section. The documentation on each standard must be verified by the department before any special education credential is issued.~~

1. Areas of preparation of teachers in specific learning disabilities include the coursework listed in this subdivision. The coursework must be taken primarily at the graduate level from a college or university with accreditation in this area and offering a major in special education that includes study in the areas listed in this subdivision. Because not all of these are course titles, applicants must have their transcripts and course content evaluated by the department of public instruction staff. All candidates who are to be employed as specific learning disabilities teachers must hold either a general elementary, middle level, or secondary educator's professional license. Specific learning disabilities teachers with a secondary educator's professional license must have an elementary mathematics methods and an elementary reading methods course. The credential requires at least one practicum working with children with specific learning disabilities after other qualifications are met. If the practicum is offered in two units, both the initial practicum and the advanced practicum must be completed to meet this requirement. Including the hours attributable to the practicum, the applicant must take the equivalent of at least twenty-four semester hours of graduate credit. The additional credits must include coursework in each of these areas:

(1) Exceptional children and youth.

(2) Characteristics of specific learning disabilities.

(3) Assessment and interpretation of children and youth with disabilities. This must contain considerable experience in the use of information from tests as they relate to curriculum, adjustment, and behavior.

(4) Methods and materials in specific learning disabilities. It is typical that the course will describe the intent of materials, modifying and adapting materials, problem-solving methods, interventions including behavior modification, and other applied learning theory.

(5) Developmental psychology or language development and disorders.

(6) Behavior management. The course typically includes a study of student reaction to frustration, response to failure, emotional problems, and ways of managing problems in the classroom.

(7) Corrective reading. Undergraduate hours in corrective reading must include supervised practicum.

b. For students completing a four-year undergraduate degree from a university with appropriate accreditation in this area, two additional graduate-level courses will be required and must include an advanced seminar in specific learning disabilities and specific learning disabilities practicum.

2. An applicant must have:

a. A valid North Dakota educator's professional license issued by the education standards and practices board based on a bachelor's degree with a certifiable major or minor or an endorsement in elementary, middle level, or secondary education; and



~~b. Meet education standards and practices board specialty area standards for this specialty as set out in North Dakota teacher education program approval standards 2000 with 2002 revisions adopted effective August 1, 2002.~~

**History:** Effective February 1, 2000; amended effective July 1, 2003; January 1, 2008.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

#### **~~67-11-13-04. Types of credentials.~~**

~~1. The professional credential is issued and is valid for the same period as the educator's professional license.~~

~~2. Tutor in training. A letter of approval is issued and is valid for one school year including the following summer. The letter of approval may be renewed for up to three consecutive years. Persons seeking authorization to work under a tutor in training approval as a specific learning disabilities teacher must:~~

~~a. Have an offer of employment or be employed as a specific learning disabilities teacher in a North Dakota school; and~~

~~b. Provide documentation of:~~

~~(1) Two school years of general education teaching experiences;~~

~~(2) A current educator's professional license;~~

~~(3) A program of study based on the standards identified in section 67-11-13-03 outlined by a college or university with an accredited training program;~~

~~(4) Provide a document prepared by the school district that describes the need for the position and the plan of supervision of the tutor in training;~~

~~(5) A statement signed by the proposed supervisor who must be certified as a specific learning disabilities teacher in North Dakota; and~~

~~(6) A copy of current transcripts documenting successful completion of a minimum of eight semester hours of applicable coursework.~~

**History:** Effective February 1, 2000; amended effective July 1, 2003; January 1, 2008.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

#### **~~67-11-13-05. Application process.~~**

~~The application process to obtain a credential under this chapter is:~~

~~1. A special education credential application form provided by the department of public instruction must be submitted for the specific learning disabilities credential. Information including the date and the applicant's name, social security number, address, telephone number, educator's professional license number and expiration date, signature, and academic preparation are required in the application.~~

~~2. A copy of official transcripts must be provided.~~

~~**History:** Effective February 1, 2000; amended effective July 1, 2003.~~

~~**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

~~**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

#### **67-11-13-06. Renewal requirements.**

~~To renew the specific learning disabilities credential, the teacher shall:~~

~~1. Complete the requirements established by the North Dakota education standards and practices board relative to renewal of the North Dakota educator's professional license. The special education credential follows the expiration date established by the education standards and practices board. No further action is required on the part of the teacher to renew a special education credential that is renewed on a continuing basis.~~

~~2. In those instances in which a lapse of the applicant's educator's professional license of more than ten years has occurred prior to renewal, the special education credential application will be reviewed to assure that all special education requirements have been met.~~

~~**History:** Effective February 1, 2000; amended effective July 1, 2003.~~

~~**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

~~**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

#### **67-11-13-07. Notification of denial.**

~~If issuance of any credential is denied, the denial must be in writing and must state all reasons for denial. The written documentation must also include the specific requirements from section 67-11-13-03 which must be completed for reconsideration.~~

~~**History:** Effective February 1, 2000.~~

~~**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

~~**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

#### **67-11-13-08. Effective dates.**

~~The issuance of credentials through September 30, 1999, and from October 1, 1999, is as follows:~~

##### ~~1. Issuing new credentials:~~

~~a. Through September 30, 1999, credentials may be issued based on both the previous standards identified in the guide I laws, policies and regulations for special education for exceptional children (1993) published by the department of public instruction or the new standards and procedures provided in this chapter.~~

~~b. Effective on February 1, 2000, all credentials will be issued based on the standards and procedures provided in this chapter.~~

~~2. Renewing existing credentials. Effective on February 1, 2000, all credential renewals must be based on the standards and procedures provided in this chapter.~~

**History:** ~~Effective February 1, 2000.~~

**General Authority:** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

**Law Implemented:** ~~NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

DRAFT

## **CHAPTER 67-11-14**

### **CERTIFICATE OF COMPLETION FOR PARAPROFESSIONALS**

#### **Section**

- 67-11-14-00.1 Definitions
- 67-11-14-01 Certificate of Completion Required
- 67-11-14-02 Issuing Agency
- 67-11-14-03 Certificate of Completion Standards
- 67-11-14-04 Verification Process - Exclusion
- 67-11-14-05 Effective Dates
- 67-11-14-06 Reconsideration
- 67-11-14-07 Use of Federal Rules and Policies

#### **67-11-14-00.1. Definitions.**

For purposes of this chapter:

1. "Instructional support" means:

- a. The provision of one-on-one tutoring planned by the teacher if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;
- b. Assistance with classroom management, including organizing instructional and other materials;
- c. Providing instructional assistance in a computer laboratory;
- d. Conducting parental involvement activities;
- e. Providing support in a library or media center;
- f. Acting as a translator; or
- g. Providing instructional support services under the direct supervision of a teacher.

2. "Paraprofessional" means an individual providing service as an aide, paraprofessional, or paraeducator who provides instructional support in an early childhood through grade twelve setting.

3. "Paraprofessionals providing instructional support in a program supported with title I funds" means:

- a. In a targeted assistance program, paraprofessionals paid with title I funds.
- b. In a title I schoolwide program, all paraprofessionals in the building.

**History:** Effective December 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58

**67-11-14-01. Certificate of completion required.**

Paraprofessionals providing instructional support in a program supported with title I funds and paraprofessionals serving students with disabilities, except paraprofessionals providing services only in the speech-language pathology discipline, must hold the North Dakota certificate of completion for their respective discipline. Paraprofessionals providing instructional services in a program supported with Title I funds must obtain the North Dakota certificate of completion immediately upon hire.

**History:** Effective February 1, 2000; amended effective December 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58

**67-11-14-02. Issuing agency.**

The North Dakota paraprofessional certificate of completion is issued by the:

Superintendent of Public Instruction  
Department of Public Instruction  
600 East Boulevard Avenue, Dept. 201  
Bismarck, ND 58505-0440

**History:** Effective February 1, 2000; amended effective December 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58

**67-11-14-03. Certificate of completion standards.**

To obtain a certificate of completion, a paraprofessional must submit a completed application form and:

1. Paraprofessionals providing instructional support to individuals with disabilities must demonstrate completion of twenty contact hours of inservice training conducted within one calendar year of employment in which the paraeducator assumes assigned duties.

Areas of preparation include:

- a. Student support concepts.
- b. Human growth and development and the impact of disabilities.
- c. Utilizing effective instructional strategies to serve students with disabilities in integrated settings.
- d. Strengthening behavior.

2. Paraprofessionals providing instructional support in a program supported with title I funds must either:

- a. Obtain a postsecondary degree of associate or higher;
- b. Complete a minimum of two years of postsecondary education which is considered the equivalent of forty-eight semester hours; or

c. Achieve a passing score on a state-approved mathematics, reading, and writing assessment that evaluates at a level equivalent to the second year of college and includes assessment of:

(1) The knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

(2) The knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness.

**History:** Effective February 1, 2000; amended effective December 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58

#### **67-11-14-04. Verification process - Exclusion.**

1. The local special education unit must have an approved comprehensive system of personnel development plan on file with the superintendent of public instruction detailing how requirements will be met. In order for the comprehensive system of personnel development plan to be approved, it must include:

a. The nature and content of the training.

b. The number of contact hours.

c. A description of local recordkeeping procedures used for verification of training.

2. Indication of completion of twenty hours of training by the paraeducator must be documented by a letter of verification signed by the person providing the training. The letter of verification must be on file in the special education administrative office for monitoring purposes.

3. The requirements of this section do not apply to speech-language pathology paraprofessionals or to paraprofessionals providing instructional support in a program supported with title I funds.

**History:** Effective February 1, 2000; amended effective December 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58

#### **67-11-14-05. Effective dates.**

Repealed as of ( date rules take effect)

~~1. Effective on December 1, 2003, all certificates will be issued based on the standards and procedures provided in this chapter. Paraprofessionals previously authorized to provide instructional paraprofessional services who continue to work in the same school district must comply with this chapter by July 1, 2005, or must receive an extension from the department, as outlined in subsection 2. Paraprofessionals previously authorized to provide instructional paraprofessional services, who initially begin employment in another school district on or after January 8, 2002, and paraprofessionals initially providing instructional paraprofessional services on or after January 8, 2002, must comply with this chapter immediately.~~

~~2. Paraprofessionals previously authorized to provide paraprofessional services who continue to work in the same school district may seek an extension of time to complete their training if the person seeking the extension:~~

~~a. Was providing paraprofessional services in the same school district since January 7, 2002;~~

~~b. Is pursuing the certificate of completion through one of the options provided in subsection 2 of section 67-11-14-03;~~

~~c. Submits a written plan of study or an assurance to the department documenting that the person will qualify for the certificate of completion by July 1, 2006; and~~

~~d. On or before July 1, 2006, provides the department with the following items:~~

~~(1) A completed application for paraprofessional certificate of completion form, including the applicant's name, address, telephone number, date of application, type of credential applied for, employment information, and the applicant's signature; and~~

~~(2) A copy of the applicant's official transcripts showing successful completion of an education curriculum as provided in subsection 2 of section 67-11-14-03, or documentation of the applicant's passing score on a state-approved mathematics, reading, and writing assessment. An extension must be approved by the department before a paraprofessional may work in a program supported by title I funds. An extension under this subsection is valid only until July 1, 2006.~~

**History:** Effective February 1, 2000; amended effective December 1, 2003; July 1, 2006.

**General Authority:** NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(14); 20 USC 6319(c)-(f); 34 CFR 200.58

#### **67-11-14-06. Reconsideration.**

If an application for a certificate of completion is denied, the applicant will be notified of the opportunity for reconsideration. Upon receipt of a written denial, the applicant may request a reconsideration of the denial. A request for reconsideration must be in writing and must be received by the superintendent of public instruction within twenty-one days of the date the denial was mailed to the applicant by the superintendent of public instruction. Untimely requests will not be considered. The request for reconsideration must discuss:

1. The fact, law, or rule the applicant believes was erroneously interpreted or applied; and

2. The applicant's arguments on how the fact, law, or rule should have been applied, giving specific reasons and a thorough analysis. The superintendent of public instruction will issue a final written response on the reconsideration request within twenty-one days after receiving a complete and timely reconsideration request.

**History:** Effective December 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58

**67-11-14-07. Use of federal rules and policies.**

Unless otherwise specified in this chapter, applicable federal law and program regulations govern paraprofessionals.

**History:** Effective December 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58



## CHAPTER 67-11-16 SPECIAL EDUCATION STRATEGIST CREDENTIAL

[Repealed effective (date rules take effect)]

### Section

67-11-16-01 Credentials Required  
67-11-16-02 Issuing Agency  
67-11-16-03 Credential Standards  
67-11-16-04 Types of Credentials  
67-11-16-05 Application Process  
67-11-16-06 Renewal Requirements  
67-11-16-07 Notification of Denial

### **67-11-16-01. Credentials required.**

For purposes of school accreditation:

1. A school that educates a student with a specific learning disability shall employ a teacher holding a credential issued by the superintendent of public instruction to teach students with specific learning disabilities or be authorized by the education standards and practices board to teach students with specific learning disabilities at a level the department determines meets or exceeds the requirements of this chapter and is consistent with the North Dakota teacher education program approval standards 2000 with 2002 revisions adopted by the education standards and practices board on August 1, 2002.
2. A school that educates a student with emotional disturbance shall employ a teacher holding a credential issued by the superintendent of public instruction to teach students with emotional disturbance or be authorized by the education standards and practices board to teach students with emotional disturbance at a level the department determines meets or exceeds the requirements of this chapter and is consistent with the North Dakota teacher education program approval standards 2000 with 2002 revisions adopted by the education standards and practices board on August 1, 2002.
3. A school that educates a student with mental retardation shall employ a teacher holding a credential issued by the superintendent of public instruction to teach students with mental retardation or be authorized by the education standards and practices board to teach students with mental retardation at a level the department determines meets or exceeds the requirements of this chapter and is consistent with the North Dakota teacher education program approval standards 2000 with 2002 revisions adopted by the education standards and practices board on August 1, 2002.
4. A school may also employ a teacher that holds the North Dakota special education professional credential in special education strategist as provided in this chapter to teach students with specific learning disabilities, emotional disturbance, or mental retardation.

**History:** Effective November 1, 2002.

**General Authority:** NDCC 15.1-02-11, 15.1-18-05, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-18-05, 15.1-32-09; 20 USC 1412(a)(14)

**67-11-16-02. Issuing agency.**

The North Dakota special education teaching credential in special education strategist issuing agency address is:

Superintendent of Public Instruction  
Department of Public Instruction  
600 East Boulevard Avenue, Dept. 201  
Bismarck, ND 58505-0440

**History:** Effective November 1, 2002.

**General Authority:** NDCC 15.1-02-11, 15.1-18-05, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-18-05, 15.1-32-09; 20 USC 1412(a)(14)

**67-11-16-03. Credential standards.**

An applicant for a special education strategist credential must meet the standards set out in this section. The documentation on each standard must be verified by the department before a special education strategist credential is issued. The standards are as follows:

1. An applicant must hold a valid elementary, middle level, or secondary North Dakota educator's professional license issued by the education standards and practices board in accordance with North Dakota Century Code sections 15.1-13-17 and 15.1-13-23 and North Dakota Administrative Code title 67.1, based on a bachelor's degree with a certifiable major or an endorsement in elementary, middle level, or secondary education.
2. Areas of preparation of teachers in special education strategist include the coursework listed in this subsection. The coursework must be taken primarily at the graduate level, from a college or university with accreditation in this area and offering a major in special education that includes study in the areas listed in this subsection. Because not all of these are course titles, applicants must have their transcripts and course content evaluated by the department of public instruction staff. All candidates who are to be employed as special education strategists must hold either an elementary, middle level, or secondary educator's professional license. Special education strategists with a middle level or secondary educator's professional license must have an elementary mathematics methods course and an elementary reading methods course and must complete a practicum as outlined by the applicant's college or university and required in subsection 3. The credential requires at least thirty semester hours of graduate credit. The credits must include coursework in each of these areas:
  - a. Exceptional children and youth;
  - b. Transition to adult life;
  - c. Assessment, program planning, special needs students;
  - d. Introduction to learning and behavior problems;
  - e. Practicum in school problems, special education;
  - f. Inclusive methods;
  - g. Behavior management for special needs students;
  - h. Collaborative relationships;
  - i. Special education law;
  - j. Assistive technology; and

- k. ~~Advanced assessment.~~
- 3. ~~Each candidate for a credential must also fulfill each of the following:~~
  - a. ~~For specific learning disability:~~
    - (1) ~~Advanced methods, specific learning disability.~~
    - (2) ~~Practicum, specific learning disability, which must be taken after other qualifications are complete.~~
  - b. ~~For emotional disturbance:~~
    - (1) ~~Advanced methods, emotional disturbance.~~
    - (2) ~~Practicum, emotional disturbance, which must be taken after other qualifications are complete.~~
  - c. ~~For mental retardation:~~
    - (1) ~~Advanced methods, mental retardation.~~
    - (2) ~~Practicum, mental retardation, which must be taken after other qualifications are complete.~~

**History:** ~~Effective November 1, 2002; amended effective November 19, 2003; July 1, 2006; January 1, 2008.~~

**General Authority:** ~~NDCC 15.1-02-16(14), 15.1-18-05, 15.1-32-09~~

**Law Implemented:** ~~NDCC 15.1-02-16(14), 15.1-18-05, 15.1-32-09; Pub. L. 108-446, §612(a)(14)~~

#### **~~67-11-16-04. Types of credentials.~~**

~~The professional credential is issued and is valid for the same period as the educator's professional license. A provisional credential is available under North Dakota Century Code section 15.1-18-06. Tutor in training. A letter of approval for a tutor in training is issued and is valid for one school year, including the following summer. The letter of approval may be renewed up to three consecutive years. Persons seeking authorization to work under a tutor-in-training approval as a special education strategist must:~~

- ~~1. Have an offer of employment to be employed as a special education strategist in a North Dakota school; and~~
- ~~2. Provide documentation of:~~
  - ~~a. Two school years of general education teaching experiences;~~
  - ~~b. A current educator's professional license;~~
  - ~~c. A program of study based on the standards identified in section 67-11-17-03 outlined by a college or university with an accredited training program;~~
  - ~~d. Provide a document prepared by the school district which describes the need for the position and the plan of supervision of the tutor in training;~~
  - ~~e. A statement signed by the proposed supervisor who must be certified as a special education strategist; and~~

f. A copy of current transcripts documenting successful completion of a minimum of eight semester hours of applicable coursework.

**History:** Effective November 1, 2002; amended effective January 1, 2008.

**General Authority:** NDCC 15.1-02-11, 15.1-18-05, 15.1-18-06, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-18-05, 15.1-18-06, 15.1-32-09; 20 USC 1412(a)(14)

#### **67-11-16-05. Application process.**

The application process to obtain a credential under this chapter is:

1. A special education credential application form provided by the department of public instruction must be submitted for the special education strategist credential. Information including the date and applicant's name, social security number, address, telephone number, educator's professional license number and expiration date, signature, and academic preparation are required in the application.

2. A copy of official transcripts must be provided.

**History:** Effective November 1, 2002.

**General Authority:** NDCC 15.1-02-11, 15.1-18-05, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-18-05, 15.1-32-09; 20 USC 1412(a)(14)

#### **67-11-16-06. Renewal requirements.**

To renew the special education strategist credential, the teacher shall:

1. Complete the requirements established by the North Dakota education standards and practices board relative to renewal of the North Dakota educator's professional license. The special education credential follows the expiration date established by the education standards and practices board. No further action is required on the part of the teacher to renew a special education credential that is renewed on a continuing basis.

2. In those instances in which a lapse of the applicant's educator's professional license of more than ten years has occurred prior to renewal, the special education credential application will be reviewed to assure that all special education requirements have been met.

**History:** Effective November 1, 2002.

**General Authority:** NDCC 15.1-02-11, 15.1-18-05, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-18-05, 15.1-32-09; 20 USC 1412(a)(14)

#### **67-11-16-07. Notification of denial.**

If issuance of any credential is denied, the denial must be in writing and must state all reasons for denial. The written documentation must also include the specific requirements from section 67-11-17-03 which must be completed for reconsideration.

**History:** Effective November 1, 2002.

**General Authority:** NDCC 15.1-02-11, 15.1-18-05, 15.1-32-09

**Law Implemented:** ~~NDCC 15.1-02-11, 15.1-18-05, 15.1-32-09; 20 USC 1412(a)(14)~~

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## CHAPTER 67-11-17 MENTAL RETARDATION TEACHER CREDENTIAL

[Repealed effective (date rules take effect)]

### Section

~~67-11-17-01 Credentials Required~~  
~~67-11-17-02 Issuing Agency~~  
~~67-11-17-03 Credential Standards~~  
~~67-11-17-04 Types of Credentials~~  
~~67-11-17-05 Application Process~~  
~~67-11-17-06 Renewal Requirements~~  
~~67-11-17-07 Notification of Denial~~

### **~~67-11-17-01. Credentials required.~~**

~~For purposes of school accreditation, a school that educates students with mental retardation must employ persons that hold either the North Dakota special education professional credential in mental retardation as provided in this chapter, a North Dakota educator's professional license with a major in mental retardation or the special education strategist credential provided for in chapter 67-11-16.~~

~~**History:** Effective July 1, 2003.~~

~~**General Authority:** NDCC 15.1-02-11, 15.1-32-09~~

~~**Law Implemented:** NDCC 15.1-02-11, 15.1-32-09; S.L. 2001, ch. 186, § 5; 20 USC 1412(a)(14)~~

### **~~67-11-17-02. Issuing agency.~~**

~~The North Dakota special education teaching credential in mental retardation issuing agency address is:~~

~~Superintendent of Public Instruction  
Department of Public Instruction  
600 East Boulevard Avenue, Dept. 201  
Bismarck, ND 58505-0440~~

~~**History:** Effective July 1, 2003.~~

~~**General Authority:** NDCC 15.1-02-11, 15.1-32-09~~

~~**Law Implemented:** NDCC 15.1-02-11, 15.1-32-09; 20 USC 1412(a)(14)~~

### **~~67-11-17-03. Credential standards.~~**

~~Each applicant seeking a credential to provide special education in the area of mental retardation must meet the standards set out in this section. The documentation submitted to obtain a credential must be verified by the department.~~

- ~~1. Prior to August 1, 2003, the standards are as follows:~~
  - ~~a. An applicant must hold a valid North Dakota educator's professional license issued by the education standards and practices board in accordance with North~~

~~Dakota Century Code sections 15.1-13-17 and 15.1-13-23 and North Dakota Administrative Code title 67.1, based on a bachelor's degree with a certifiable major or minor or an endorsement in elementary or secondary education or a major in mental retardation, in which case a special education credential need not be issued.~~

~~b. Areas of preparation of teachers for students with mental retardation include the coursework listed in this subdivision. The coursework must be taken from a college or university with accreditation in this area and offering a major in special education that includes study in the areas listed in this subdivision. Because not all of these are course titles, applicants must have their transcripts and course content evaluated by the department of public instruction staff. All candidates who are to be employed as mental retardation teachers must hold either a general elementary or secondary educator's professional license or hold a North Dakota educator's professional license with a major in mental retardation. The special education credential requires twenty semester hours of credit. The credits must include coursework in each of these areas:~~

~~(1) Exceptional children and youth;~~

~~(2) Mental hygiene or psychology of adjustment or personality theory or abnormal psychology;~~

~~(3) Methods and materials in mental retardation. It is typical that the course will describe the intent of materials, modifying and adapting materials, problem-solving methods, interventions including behavior modification, and other applied learning theory;~~

~~(4) Practicum in mental retardation;~~

~~(5) Characteristics or assessment of specific learning disabilities;~~

~~(6) Transition to adult life; and~~

~~(7) Music or art methods, corrective reading, behavior management, or consultation and collaboration.~~

~~2. After July 31, 2003, an applicant must:~~

~~a. Hold a valid North Dakota educator's professional license issued by the education standards and practices board in accordance with North Dakota Century Code sections 15.1-13-17 and 15.1-13-23 and North Dakota Administrative Code title 67.1, based on a bachelor's degree with a licensable major or minor or an endorsement in elementary or secondary education or a major in mental retardation, in which case a special education credential need not be issued; and~~

~~b. Meet education standards and practices board specialty area standards for this specialty as set out in North Dakota teacher education program approval standards 2000 with 2002 revisions adopted effective August 1, 2002.~~

**History:** Effective July 1, 2003; amended effective November 19, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-09; 20 USC 1412(a)(14)

**67-11-17-04. Types of credentials.**

The professional credential is issued and is valid for the same period as the educator's professional license.

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-09; 20 USC 1412(a)(14)

**67-11-17-05. Application process.**

The application process to obtain a credential under this chapter is:

1. A special education credential application form provided by the department of public instruction must be submitted for the mental retardation credential. Information including the date and applicant's name, social security number, address, telephone number, educator's professional license number and expiration date, signature, and academic preparation are required in the application.

2. A copy of an official transcript must be provided.

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-09; 20 USC 1412(a)(14)

**67-11-17-06. Renewal requirements.**

To renew the mental retardation credential, the teacher shall:

1. Complete the requirements established by the education standards and practices board relative to renewal of the North Dakota educator's professional license. The special education credential follows the expiration date established by the education standards and practices board. No further action is required on the part of the teacher to renew a special education credential that is renewed on a continuing basis.

2. In those instances in which a lapse of the applicant's educator's professional license of more than ten years has occurred prior to renewal, the special education credential application will be reviewed to assure that all special education requirements have been met.

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-09; 20 USC 1412(a)(14)

**67-11-17-07. Notification of denial.**

If issuance of any credential is denied, the denial must be in writing and must state all reasons for denial. The written documentation must also include the specific requirements from section 67-11-17-03 which must be completed for reconsideration.



**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-09; 20 USC 1412(a)(14)

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## CHAPTER 67-11-18 CREDENTIAL REQUIREMENT FOR TEACHERS OF THE VISUALLY IMPAIRED

[Repealed effective (date rules take effect)]

### Section

~~67-11-18-01 Credentials Required  
67-11-18-02 Issuing Agency  
67-11-18-03 Credential Standards  
67-11-18-04 Validity of Credentials  
67-11-18-05 Application Process  
67-11-18-06 Renewal Requirements  
67-11-18-07 Notification of Denial~~

### **67-11-18-01. Credentials required.**

~~For purposes of school accreditation, a school that educates students who are visually impaired must employ a teacher of the visually impaired who holds either the North Dakota teacher of the visually impaired credential as outlined in this chapter or who has been authorized by the education standards and practices board in this specialty at a level the department determines meets or exceeds the requirements of this chapter and is consistent with the North Dakota teacher education program approval standards 2000 with 2002 revisions adopted by the education standards and practices board on August 1, 2002.~~

~~**History:** Effective July 1, 2003.~~

~~**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

~~**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

### **67-11-18-02. Issuing agency.**

~~The North Dakota teacher of the visually impaired credential issuing agency address is:  
Superintendent of Public Instruction  
Department of Public Instruction  
600 East Boulevard Avenue, Dept. 204  
Bismarck, ND 58505-0440~~

~~**History:** Effective July 1, 2003.~~

~~**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

~~**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

### **67-11-18-03. Credential standards.**

~~Each applicant for a teacher of the visually impaired credential must meet the standards in this section. The documentation on each standard must be verified by the department before a credential will be issued.~~

- ~~1. Prior to August 1, 2003, an applicant must have:
  - a. A valid North Dakota educator's professional license issued by the education standards and practices board in accordance with North Dakota Century Code~~

sections 15.1-13-10 and 15.1-13-23 and North Dakota Administrative Code title 67.1, based on a bachelor's degree with a minimum of a licensable major or minor or an endorsement;

b. ~~Recommendations from two persons who supervised the applicant during the applicant's teaching experience; and~~

c. ~~The applicant's education must include twenty-one hours of coursework specific to the teaching of visually impaired children from a state-approved program. Course preparation must include at least one from each of the following:~~

- ~~(1) Education of the exceptional student;~~
- ~~(2) Method in the education of the visually impaired;~~
- ~~(3) Introduction to orientation and mobility of the visually impaired;~~
- ~~(4) Communication with visually impaired students;~~
- ~~(5) Educational and medical implications of visual impairment;~~
- ~~(6) Student teaching of the visually impaired; and~~
- ~~(7) Education of the exceptional student or a composite of courses related to exceptionalities other than visual handicaps.~~

2. ~~After July 31, 2003, an applicant must:~~

a. ~~Have a valid North Dakota educator's professional license issued by the education standards and practices board based on a bachelor's degree with a licensable major or minor or an endorsement;~~

b. ~~Provide written recommendations from two persons who supervised the applicant during the applicant's teaching experience; and~~

c. ~~Meet education standards and practices board specialty area standards for this specialty as set out in North Dakota teacher education program approval standards 2000 with 2002 revisions adopted effective August 1, 2002.~~

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

#### **~~67-11-18-04. Validity of credentials.~~**

~~A credential authorizing a teacher of the visually impaired to teach students with visual impairments at any level is issued and is valid for the same period as the teacher's educator's professional license.~~

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**67-11-18-05. Application process.**

The application process to obtain a teacher of the visually impaired credential under this chapter is:

1. A teacher of the visually impaired credential application form provided by the department of public instruction must be submitted including the applicant's name, social security number, date, address, telephone number, educator's professional license number and expiration date, signature, employment information, academic preparation, references; and
2. A copy of official transcripts must be provided.

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**67-11-18-06. Renewal requirements.**

To renew the teacher of the visually impaired credential, an individual must meet the requirements established by the education standards and practices board relative to renewal of the North Dakota educator's professional license. The teacher of the visually impaired credential follows the expiration date established by the education standards and practices board. No further action is required on the part of the teacher to renew a teacher of the visually impaired credential.

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**67-11-18-07. Notification of denial.**

If issuance or renewal of a teacher of the visually impaired credential is denied, the denial must be in writing and must state all reasons for denial. The written documentation must also include requirements for completion for issuance or renewal of a teacher of the visually impaired credential.

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**CHAPTER 67-11-19**  
**CREDENTIAL REQUIREMENT FOR TEACHERS OF STUDENTS WHO ARE DEAF**  
**OR HARD OF HEARING**

[Repealed effective (date rules take effect)]

Section

~~67-11-19-01 Credentials Required~~  
~~67-11-19-02 Issuing Agency~~  
~~67-11-19-03 Credential Standards~~  
~~67-11-19-04 Validity of Credentials~~  
~~67-11-19-05 Application Process~~  
~~67-11-19-06 Renewal Requirements~~  
~~67-11-19-07 Notification of Denial~~

**~~67-11-19-01. Credentials required.~~**

~~For purposes of school accreditation, a school that teaches students who are deaf or hard of hearing must employ a teacher of students who are deaf or hard of hearing who holds either the North Dakota teacher of students who are deaf or hard of hearing credential as outlined in this chapter or who has been authorized by the education standards and practices board in this specialty at a level the department determines meets or exceeds the requirements of this chapter and is consistent with the North Dakota teacher education program approval standards 2000 with 2002 revisions adopted by the education standards and practices board on August 1, 2002.~~

~~**History:** Effective July 1, 2003.~~

~~**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

~~**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

**~~67-11-19-02. Issuing agency.~~**

~~The North Dakota teacher of students who are deaf or hard of hearing credential issuing agency address is:~~

~~Superintendent of Public Instruction  
Department of Public Instruction  
600 East Boulevard Avenue, Dept. 201  
Bismarck, ND 58505-0440~~

~~**History:** Effective July 1, 2003.~~

~~**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09~~

~~**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)~~

**~~67-11-19-03. Credential standards.~~**

~~Each applicant for a teacher of students who are deaf or hard of hearing credential must meet the standards in this section. The documentation on each standard must be verified within the department before a credential will be issued.~~

~~1. Prior to August 1, 2003, an applicant must have:~~

~~a. A valid North Dakota educator's professional license issued by the education standards and practices board based on a bachelor's degree with minimum of a licensable major or minor or an endorsement;~~

~~b. Recommendations from two persons who supervised the applicant during the applicant's teaching experience; and~~

~~c. The applicant's education must include preparation in teaching students who are deaf or hard of hearing consisting of a minimum of:~~

~~(1) For teachers of students who are deaf or hard of hearing:~~

~~(a) Theory and methods of teaching speech to children who are deaf or hard of hearing (four semester hours);~~

~~(b) Theory and methods of teaching language to children who are deaf or hard of hearing (four semester hours);~~

~~(c) Methods of teaching reading and academic subjects to children who are deaf or hard of hearing (four semester hours);~~

~~(d) Sign language (two semester hours);~~

~~(e) History, guidance, and education of the deaf or hard of hearing (two semester hours);~~

~~(f) Auditory and speech mechanisms (two semester hours);~~

~~(g) Auditory assessment and training (two semester hours);~~

~~(h) Observation and student teaching (eight semester hours);~~

~~(i) Child growth and development (two semester hours); and~~

~~(j) Psychology or education of exceptional children (two semester hours).~~

~~(2) For teachers of elementary students in academic subjects, the teacher must meet the requirements of subdivision a.~~

~~(3) For teachers of students in grades nine through twelve in academic subjects, the teacher must have:~~

~~(a) A major or minor in the area in which the teacher is teaching;  
or~~

~~(b) Met the requirements of subdivision a.~~

~~2. After July 31, 2003, an applicant must:~~

a. Have a valid North Dakota educator's professional license issued by the education standards and practices board based on a bachelor's degree with a licensable major or minor or an endorsement;

b. Provide written recommendations from two persons who supervised the applicant during the applicant's teaching experience; and

c. Meet education standards and practices board specialty area standards for this specialty as set out in North Dakota teacher education program approval standards 2000 with 2002 revisions adopted effective August 1, 2002.

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

#### **67-11-19-04. Validity of credentials.**

A credential authorizing a teacher of students who are deaf or hard of hearing to teach students who are deaf or hard of hearing at any level is issued and is valid for the same period as the teacher's educator's professional license.

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

#### **67-11-19-05. Application process.**

The application process to obtain a teacher of students who are deaf or hard of hearing credential under this chapter is:

1. A teacher of students who are deaf or hard of hearing credential application form provided by the department of public instruction must be submitted including the applicant's name, social security number, date, address, telephone number, educator's professional license number and expiration date, signature, employment information, academic preparation, and references; and

2. A copy of official transcripts must be provided.

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

#### **67-11-19-06. Renewal requirements.**

To renew the teacher of students who are deaf or hard of hearing credential, an individual must meet the requirements established by the education standards and practices board relative to renewal of the North Dakota educator's professional license. The teacher of students who are deaf or hard of hearing credential follows the expiration date established by the education standards and practices board. No further action is required on the part of the teacher to renew a teacher of students who are deaf or hard of hearing credential.

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)

**~~67-11-19-07. Notification of denial.~~**

~~If issuance or renewal of a teacher of students who are deaf or hard of hearing credential is denied, the denial must be in writing and must state all reasons for denial. The written documentation must also include requirements for completion for issuance or renewal of a teacher of students who are deaf or hard of hearing credential.~~

**History:** Effective July 1, 2003.

**General Authority:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09

**Law Implemented:** NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15)



## **ARTICLE 67-13**

### **SCHOOL DISTRICT COOPERATIVE AGREEMENTS**

Chapter  
67-13-01 School District Cooperative Agreements

#### **CHAPTER 67-13-01**

### **SCHOOL DISTRICT COOPERATIVE AGREEMENTS**

Section  
67-13-01-01 Purpose  
67-13-01-02 Approval  
67-13-01-03 Withdrawal  
67-13-01-04 School Districts  
67-13-01-05 Cooperative Program  
67-13-01-06 Agreements

#### **67-13-01-01. Purpose.**

School districts cooperating with another school district or districts for the purpose of providing joint educational opportunities to the students as established by North Dakota Century Code section 15.1-27-16 may receive additional per student payments as provided in North Dakota Century Code section 15.1-27-16.

**History:** Effective May 1, 1999; amended effective January 1, 2018.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 15.1-27-16

#### **67-13-01-02. Approval.**

Cooperative agreements of education must first receive the approval of the superintendent of public instruction and shall be effective beginning July first of the year approved, upon the approval of the school boards of the member districts. The agreement may be changed only by a majority vote of each board signing the agreement and the approval of the department of public instruction. Any change to the agreement requires submission to and approval from the superintendent of public instruction prior to the change becoming effective.

**History:** Effective May 1, 1999; amended effective January 1, 2018.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 15.1-27-16

#### **67-13-01-03. Withdrawal.**

Any district wishing to withdraw from the cooperative agreement must submit its intent to the other cooperative members in writing by January fifteenth. Withdrawal will become effective June thirtieth of the same year. The superintendent of public instruction must be notified in writing thirty days prior to the termination of the agreement.

**History:** Effective May 1, 1999; amended effective January 1, 2018.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 15.1-27-16

**67-13-01-04. School districts.**

Cooperating school districts must agree to equitably share expenses of the cooperative agreement, to inventory all equipment used by the cooperative, and to provide appropriate transportation.

**History:** Effective May 1, 1999; amended effective January 1, 2018.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 15.1-27-16

**67-13-01-05. Cooperative program.**

The school district cooperative must address the following:

1. A plan for providing unduplicated grade level services for at least four grade levels, unless the school district has taxable property located in the same city as the other school district under the cooperative plan;
2. A plan for sharing administration, at a minimum a shared superintendent unless the school district has taxable property located in the same city as the other school district under the cooperative plan;
3. A plan for sharing cooperative expenditures between the member districts;
4. A plan for sharing cooperative revenues upon termination of the cooperative; and
5. A plan for the changing of the agreement.

**History:** Effective May 1, 1999; amended effective January 1, 2018.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 15.1-27-16

**67-13-01-06. Agreements.**

The following areas must be discussed with hopes of arriving at written agreements. However, written agreements are not required for:

1. Identification of the location of education and grade level services programs;
2. Provisions for curriculum integration;
3. Site utilization regarding partial usage or closure;
4. Provision for sharing of extracurricular activities; and
5. The number and timely manner in which the school boards will meet jointly during the duration of the agreement.

**History:** Effective May 1, 1999; amended effective January 1, 2018.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 15.1-27-16

## **ARTICLE 67-21 SCHOOL FOOD PROGRAMS**

Chapter	
67-21-01	School Lunch Program
67-21-02	School Breakfast Program
67-21-03	Special Milk Program
67-21-04	Child and Adult Care Food Program
67-21-05	Summer Food Service Program
67-21-06	Food Distribution Program
67-21-07	Food Distribution on Indian Reservations
67-21-08	The Emergency Food Assistance Program
67-21-09	<u>The Commodity Supplemental Food Program</u>
67-21-10	<u>Fresh Fruits and Vegetable Program</u>

### **CHAPTER 67-21-01 SCHOOL LUNCH PROGRAM**

Section	
67-21-01-01	Purpose
67-21-01-02	State Agency
67-21-01-03	Use of Federal Rules and Policies
67-21-01-04	Eligibility
67-21-01-05	Application
67-21-01-06	Monitoring
67-21-01-07	Reimbursement Claims
67-21-01-08	Meal Costs
67-21-01-09	Menus
67-21-01-10	Food Distribution
67-21-01-11	Health and Safety
67-21-01-12	Fiscal Management
67-21-01-13	<u>Operating Report Procurement Standards</u>

#### **67-21-01-01. Purpose.**

The school lunch program, initiated at the federal level and in partnership with the states, is designed to safeguard the health and well-being of the nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food by assisting the states, through grants-in-aid and other means, in providing an adequate supply of foods and facilities for the operation of the nonprofit school lunch program.

**History:** Effective January 1, 2000.

**General Authority:** NDCC15.1-35-02, 28-32-02

**Law Implemented:** NDCC15.1-35-01

**67-21-01-02. State agency.**

The department of public instruction has been designated by the United States department of agriculture as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the program.

**History:** Effective January 1, 2000.

**General Authority:** NDCC15.1-35-02, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.2

**67-21-01-03. Use of federal rules and policies.**

Unless otherwise specified in this chapter, eligibility to participate in the national school lunch program is governed by federal national school lunch program regulations. The local program must conform to lawfully issued rules and policies relating to the national school lunch program.

**History:** Effective January 1, 2000.

**General Authority:** NDCC15.1-35-02, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210

**67-21-01-04. Eligibility.**

Local agencies eligible for participation in school lunch programs include:

1. Educational units of high school grade or under, recognized as part of the educational system in the state;
2. Public or nonprofit private classes of pre-primary grade conducted in educational units as a part of the educational system in the state;
3. Public or nonprofit private residential institutions that operate principally for the care of children; and
4. Private institutions licensed by the department of human services to provide residential child care services.

**History:** Effective January 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.2

## **67-21-01-05. Application.**

Application forms are available at the department of public instruction, 600 east boulevard avenue department 201, Bismarck, North Dakota 58505-0440. The application forms include:

1. Program agreement that includes:

- a. Identification of the program or programs the local agency wants to participate in;
- b. Verification that the local agency will comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all provisions required by the implementing regulations of the United States department of agriculture. Signature by an authorized representative of the local agency will serve as verification; and
- c. Verification of agreement that the local agency agrees to compile data, maintain records, and submit reports as required and permit authorized personnel to review such records, books, and accounts as needed to ascertain compliance with the program. Signature by an authorized representative of the local agency will serve as verification. Such records must be maintained for three years after the end of the fiscal year to which they pertain.

2. Renewal agreement. This document is presented annually to the local agency by the state agency for any appropriate revisions. Forms and information are forwarded to the local agency in July and must be returned for approval and renewal by September.

3. Free or reduced-price policy statement and attachments. This document will be automatically renewed unless a new or updated statement is entered into by the state and local agency.

4. The program agreement, in its entirety, stipulates that local agencies:

- a. Maintain a nonprofit school food service program;
- b. Limit its net cash resources to an amount that does not exceed three months' average expenditures;
- c. Maintain a financial management system and comply with related requirements;
- d. Serve meals that meet the minimum requirements;
- e. Price meals as a unit;
- f. Serve meals free or at a reduced price to all children who are determined by the local agency to be eligible for such meals;

- g. Count meals served and claim reimbursement for reimbursable free, reduced-price, and paid meals;
- h. Maintain proper sanitation and health standards in conformance with applicable state and local laws and regulations;
- i. Accept and use donated foods offered by the United States department of agriculture, if desired;
- j. Maintain necessary facilities for storing, preparing, and serving food;
- k. Upon request, make all accounts and records pertaining to the program available to the state agency and to the United States department of agriculture; and
- l. Maintain files of currently approved and denied free and reduced-price applications or alternative documents and retain them for three years after the end of the fiscal year to which they pertain.

**History:** Effective January 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.9

#### **67-21-01-06. Monitoring.**

The department of public instruction will conduct onsite reviews of local agency program operations ~~once every four years~~ as specified by federal regulations for the purpose of providing guidance and technical assistance to local agency food service programs. All such reviews ~~will~~ must include the assessment of claims by the state agency for any overpayment and appropriate corrective action.

**History:** Effective January 1, 2000, Amended (*date rules go into effect*).

**General Authority:** NDCC15.1-35-05, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210; 7 CFR 210.18

#### **67-21-01-07. Reimbursement claims.**

Local agencies are required to submit claims for reimbursement using the basic claim for reimbursement form provided by the department of public instruction. Such claims are due on the tenth day of the month following the month of the claim. Federal and state reimbursement levels are determined on a periodic basis according to 7 CFR 210.

**History:** Effective January 1, 2000.

**General Authority:** NDCC15.1-35-05, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210

#### **67-21-01-08. Meal costs.**

The local agency must set meal prices according to federal regulations. However, if student payments are required, they cannot exceed forty cents for a reduced-price lunch. Qualifying students shall receive lunch free or at a reduced price. Local agencies must agree to establish and use fair hearing procedures as stipulated in the free and reduced-price policy for households contesting the agency's decision regarding an application for reduced-price or free meals. Local agencies under alternative provisions 2 and 3 for annual determinations of eligibility for free and reduced-price school meals and daily meal count by type, or the community eligibility provision are not allowed to charge for meals.

**History:** Effective January 1, 2000, Amended (*date rules go into effect*).

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.14; 7 CFR 245

#### **67-21-01-09. Menus.**

All lunch served under the program must meet the dietary guidelines for Americans as established by the federal regulations in 7 CFR 210.

**History:** Effective January 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.10

#### **67-21-01-10. Food distribution.**

Local participating agencies may receive commodities United States department of agriculture foods or the value of entitlement provided through the federal food distribution program through two four categories:

1. Entitlement United States department of agriculture foods commodities, which are commodities foods that local agencies are entitled to receive under the regulation and are distributed by the State contracted warehouse and transportation facility.
2. ~~Bonus commodities, which are commodities that exceed the entitlement limits, are periodic, and are free to local agencies~~ A portion of United States department of agriculture food entitlements allocated by local agencies into the department of defense fresh fruit and vegetable program. Local agencies place orders through the department of defense fruit

and vegetable ordering and reporting system and receive deliveries from the nationally contracted distributor.

3. A portion of their United States department of agriculture food entitlements allocated by local agencies into the net-off invoice value pass through system. Local agencies order State procured and approved net-off-invoice United States department of agriculture food items directly from their contracted distributor.
4. Bonus United States department of agriculture foods, which are foods that are offered by United States department of agriculture and do not deduct from United States department of agriculture food entitlement. These foods are periodic and only available if offered by United States department of agriculture.

The amount of ~~commodities for both categories~~ United States department of agriculture food entitlement to which local agencies are entitled is determined by 7 CFR 210 and 7 CFR 250 and the availability of the ~~commodities~~ United States department of agriculture foods.

**History:** Effective January 1, 2000, Amended (*date rules go into effect*).

**General Authority:** NDCC15.1-35-02, 15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210, 7 CFR 210.4, 7 CFR 250

#### **67-21-01-11. Health and safety.**

The local agency food service program must adhere to state and local health and food safety requirements, as adopted by the North Dakota state department of health, overviews of which are available from the department of public instruction. A school food service employee who functions as a food preparation site manager must complete training in food safety and sanitation as defined by the superintendent of public instruction.

**History:** Effective January 1, 2000.

**General Authority:** NDCC15.1-35-03, 15.1-35-08, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.13

#### **67-21-01-12. Fiscal management.**

Each local agency must maintain a financial management system to account for revenues and expenditures of its food service program. In local agencies that are public schools, ledgers must be ~~designed to identify revenue and expenditure codes from the North Dakota school district financial report reported, which is and~~ available at the department of public instruction.

**History:** Effective January 1, 2000, Amended (*date rules go into effect*).

**General Authority:** NDCC15.1-35-04, 15.1-35-05, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.14



### **67-21-01-13. ~~Operating report.~~ Procurement Standards**

~~An operating form, available at the department of public instruction, must be filed by the local agency no later than July fifteenth of each year and before the renewal agreement for the subsequent year may be approved. The form allows for the reporting of revenue, expenses, and beginning and ending cash balances.~~ Local agencies must comply with the requirements of the Office of Management and Budget Guidance for Grants and Agreements, 2 CFR Part 200, concerning the procurement of supplies, food, equipment, and other services with program funds.

**History:** Effective January 1, 2000, Amended (*date rules go into effect*).

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15-54-05; 7 CFR 210.15, 2CFR CFR Part 200

## **CHAPTER 67-21-02 SCHOOL BREAKFAST PROGRAM**

### **Section**

- 67-21-02-01 Purpose
- 67-21-02-02 State Agency
- 67-21-02-03 Use of Federal Rules and Policies
- 67-21-02-04 Eligibility
- 67-21-02-05 Application
- 67-21-02-06 Monitoring
- 67-21-02-07 Reimbursement Claims
- 67-21-02-08 Meal Costs
- 67-21-02-09 Menus
- 67-21-02-10 Procurement Standards

### **67-21-02-01. Purpose.**

The school breakfast program, initiated at the federal level and in partnership with the states, authorizes payments to the states to assist them to initiate, maintain, or expand nonprofit breakfast programs in schools.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15-54

### **67-21-02-02. State agency.**

The department of public instruction has been designated by the United States department of agriculture as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03; 7 CFR 220.3

### **67-21-02-03. Use of federal rules and policies.**

Unless otherwise specified in this chapter, eligibility to participate in the school breakfast program is governed by federal school breakfast program regulations. The local program must conform to lawfully issued rules and policies relating to the school breakfast program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15-54-05; 7 CFR 220

#### **67-21-02-04. Eligibility.**

Local agencies eligible for participation in school breakfast programs include:

1. Educational units of high school grade or under, recognized as part of the educational system in the state;
2. Public or nonprofit private classes of preprimary grade conducted in educational units as a part of the educational system in the state;
3. Public or nonprofit private residential institutions that operate principally for the care of children; and
4. Private institutions licensed by the department of human services to provide residential child care services.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15-54-05; 7 CFR 220.2(u)

#### **67-21-02-05. Application.**

Application forms are available at the Department of Public Instruction, 600 East Boulevard Avenue, Department 201, Bismarck, North Dakota 58505-0440.

1. The application forms include:
  - a. A program agreement, which includes:
    - (1) Identification of the program or programs in which the local agency wants to participate;
    - (2) Verification that the local agency will comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all provisions required by the implementing regulations of the United States department of agriculture. Signature by an authorized representative of the local agency will serve as verification; and
    - (3) Verification of agreement that the local agency agrees to compile data, maintain records, and submit reports as required and permit authorized personnel to review such records, books, and accounts as needed to ascertain compliance with the program. Signature by an authorized representative of the local agency will serve as verification. Such records must be maintained for three years after the end of the fiscal year to which they pertain.

- b. A renewal agreement, which is presented annually to the local agency by the state agency for any appropriate revisions. Forms and information are forwarded to the local agency in July and must be returned for approval and renewal by September.
  - c. A free or reduced-price policy statement and attachments, which will be automatically renewed unless a new or updated statement is entered into by the state and local agencies.
2. The program agreement, in its entirety, must stipulate that local agencies:
- a. Maintain a nonprofit school food service program;
  - b. Limit its net cash resources to an amount that does not exceed three months' average expenditures;
  - c. Maintain a financial management system and comply with related requirements;
  - d. Serve meals that meet the minimum requirements;
  - e. Price meals as a unit;
  - f. Serve meals free or at a reduced price to all children who are determined by the local agency to be eligible for such meals;
  - g. Count meals served and claim reimbursement for reimbursable free, reduced-price, and paid meals;
  - h. Maintain proper sanitation and health standards in conformance with applicable state and local laws and regulations;
  - i. Accept and use donated foods offered by the United States department of agriculture, if desired;
  - j. Maintain necessary facilities for storing, preparing, and serving food;
  - k. Upon request, make all accounts and records pertaining to the program available to the state agency and to the United States department of agriculture; and
  - l. Maintain files of currently approved and denied free and reduced-price applications or alternative documents and retain them for three years after the end of the fiscal year to which they pertain.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15-54-05; 7 CFR 220.7

#### **67-21-02-06. Monitoring.**

The department of public instruction shall conduct onsite reviews of local agency program operations as specified by federal regulations ~~once every four years~~ for the purpose of providing guidance and technical assistance to local agency food service programs. All such reviews must include the assessment of claims by the state agency for any overpayment and appropriate corrective action.

**History:** Effective February 1, 2000, Amended (*date rules go into effect*)

**General Authority:** NDCC15.1-35-05, 28-32-02

**Law Implemented:** NDCC15.1-35-05; 7 CFR 220.15

#### **67-21-02-07. Reimbursement claims.**

Local agencies shall submit claims for reimbursement using the basic claim for reimbursement form provided by the department of public instruction. Such claims are due on the tenth day of the month following the month of the claim. Federal and state reimbursement levels are determined on a periodic basis according to 7 CFR 220.9.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15-54-05; 7 CFR 210.11

#### **67-21-02-08. Meal costs.**

The local agency has complete discretion in establishing student meal prices. However, if student payments are required, they may not exceed thirty cents for a reduced-price breakfast. Qualifying students must receive breakfast free or at a reduced price. Local agencies must agree to establish and use fair hearing procedures as stipulated in the free and reduced-price policy for households contesting the agency's decision regarding an eligibility determination on an application for reduced-price or free meals. Local agencies under alternative provisions 2 and 3 for annual determinations of eligibility for free and reduced-price school meals and daily meal count by type, or the community eligibility provision are not allowed to charge for meals.

**History:** Effective February 1, 2000, Amended (*date rules go into effect*)

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15-54-05; 7 CFR 210.19

#### **67-21-02-09. Menus.**

All breakfasts served under the program must meet program requirements as stipulated in 7 CFR 220.8 and must comply with dietary guidelines for Americans.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15-54-05; 7 CFR 220.8

**67-21-02-10. Procurement standards.**

Local agencies must comply with the requirements of the office of management and budget circular 102 and the department's uniform federal assistance regulation, 7 CFR 3015 subpart S guidance for grants and agreements, 2 CFR Part 200, concerning the procurement of supplies, food, equipment, and other services with program funds.

**History:** Effective February 1, 2000, Amended (*date rules go into effect*)

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15-54-05; 7 CFR 220.16, 2 CFR Part 200

## CHAPTER 67-21-03 SPECIAL MILK PROGRAM

Section	
67-21-03-01	Purpose
67-21-03-02	State Agency
67-21-03-03	Use of Federal Rules and Policies
67-21-03-04	Eligibility
67-21-03-05	Application
67-21-03-06	Monitoring
67-21-03-07	Reimbursement Claims
<u>67-21-03-08</u>	<u>Health and safety</u>

### **67-21-03-01. Purpose.**

The Special Milk Program, initiated at the federal level and in partnership with the states, is designed to encourage the consumption of fluid milk by children.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15-54

### **67-21-03-02. State agency.**

The department of public instruction has been designated by the United States department of Agriculture as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03; 7 CFR 215.3

### **67-21-03-03. Use of federal rules and policies.**

Unless otherwise specified in this chapter, eligibility to participate in the special milk program is governed by federal special milk program regulations. The local program must conform to lawfully issued rules and policies relating to the special milk program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 15.1-35-05, 28-32-02

**Law Implemented:** NDCC15.1-35-03; 7 CFR 215

### **67-21-03-04. Eligibility.**

Local agencies eligible for participation in the special milk program include:

1. Nonprofit schools of high school grade and under which do not participate in a meal service program authorized under the National School Lunch Act.
2. Split-session kindergarten programs in which the participating children do not have access to other meals.
3. Nonprofit nursery schools, child care centers, settlement houses, summer camps, and other nonprofit institutions devoted to the care and training of children.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15.1-35-05; 7 CFR 215.1

#### **67-21-03-05. Application.**

Application forms are available at the Department of Public Instruction, 600 East Boulevard Avenue, Department 201, Bismarck, North Dakota 58505-0440.

1. The application forms include:
  - a. A program agreement, which includes:
    - (1) Identification of the program or programs in which the local agency wants to participate;
    - (2) Verification that the local agency will comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all provisions required by the implementing regulations of the United States department of agriculture. Signature by an authorized representative of the local agency will serve as verification; and
    - (3) Verification of agreement that the local agency agrees to compile data, maintain records, and submit reports as required and permit authorized personnel to review such records, books, and accounts as needed to ascertain compliance with the program. Signature by an authorized representative of the local agency will serve as verification. Such records must be maintained for three years after the end of the fiscal year to which they pertain.
  - b. A renewal agreement, which is presented annually to the local agency by the state agency for any appropriate revisions. Forms and information are forwarded to the local agency in July and must be returned for approval and renewal by September.
  - c. A free or reduced-price policy statement and attachments, which will be automatically renewed unless a new or updated statement is entered into by the state and local



agency.

2. The program agreement, in its entirety, must stipulate that local agencies:

- a. Maintain a nonprofit school food service program;
- b. Limit its net cash resources to an amount that does not exceed three months' average expenditures;
- c. Maintain a financial management system and comply with related requirements;
- d. Serve milk that meets the minimum requirements;
- e. Serve milk free to all children who are determined by the local agency to be eligible for such meals;
- f. Count milk served and claim reimbursement;
- g. Maintain proper sanitation and health standards in conformance with applicable state and local laws and regulations;
- h. Maintain necessary facilities for storing, preparing, and serving milk;
- i. Upon request, make all accounts and records pertaining to the program available to the state agency and to the United States department of agriculture; and
- j. Maintain files of currently approved and denied free and reduced-price applications or alternative documents and retain them for three years after the end of the fiscal year to which they pertain.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15.1-35-05; 7 CFR 210.9

#### **67-21-03-06. Monitoring.**

The department of public instruction shall conduct onsite visits to participating local agencies to ensure compliance with program regulations and with the nondiscrimination regulations of the United States department of agriculture.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-05, 28-32-02

**Law Implemented:** NDCC15.1-35-05; 7 CFR 215.11

#### **67-21-03-07. Reimbursement claims.**

Local agencies shall submit claims for reimbursement using the basic claim for reimbursement form provided by the department of public instruction. Such claims are due on the tenth day of the month following the month of the claim. Federal reimbursement levels are determined on a periodic basis.

**History:** Effective February 1, 2000.

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15.1-35-05; 7 CFR 215.10

**67-21-03-08. Health and safety.**

The local agency food service program must adhere to state and local health and food safety requirements, as adopted by the North Dakota department of health, overviews of which are available from the department of public instruction.

**History:** Effective *(date rules take effect)*.

**General Authority:** NDCC15.1-35-03, 15.1-35-08, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.13

## **CHAPTER 67-21-04 CHILD AND ADULT CARE FOOD PROGRAM**

### **Section**

67-21-04-01	Purpose
67-21-04-02	State Agency
67-21-04-03	Use of Federal Funds
67-21-04-04	Eligibility
67-21-04-05	Application
67-21-04-06	Monitoring
67-21-04-07	Reimbursement Claims
67-21-04-08	Meal Service
67-21-04-09	Food Distribution
67-21-04-10	Health and Safety
67-21-04-11	Fiscal Management
67-21-04-12	Family Day Care Home Sponsoring Organization
67-21-04-13	<u>Procurement Standards</u>

### **67-21-04-01. Purpose.**

The program, initiated at the federal level and in partnership with the states, provides assistance to the state through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children or adult participants in nonresidential institutions that provide care.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54

### **67-21-04-02. State agency.**

The department of public instruction has been designated as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03; 7 CFR 226.3

### **67-21-04-03. Use of federal funds.**

Unless otherwise specified in this chapter, eligibility to participate in the child and adult care food program is governed by federal child and adult care food program regulations. Local agencies must conform to lawfully issued regulations and policies relating to the program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 226

**67-21-04-04. Eligibility.**

Local agencies eligible to participate in the program include:

1. An adult day care center, licensed or approved, independent or under the auspices of a sponsoring organization.
2. Public or private nonprofit child care centers, or any proprietary title XX centers that meet federal requirements.
3. A child care facility that is a licensed or approved child care center, outside-school-hours care center, or day care home under the auspices of a sponsoring organization.
4. A sponsoring organization that is a public or nonprofit private organization responsible for the administration of the food program in:
  - a. One or more day care homes;
  - b. A child care center, outside-school-hours care center, or adult day care center;
  - c. Two or more child care centers, outside-school-hours care centers, or adult day care centers; or
  - d. Any combination of child care centers, adult day care centers, day care homes, or outside-school-hours care centers.

**History:** Effective February 1, 2000, Amended (*date rules go into effect*)

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 226.2

**67-21-04-05. Application.**

Application forms are available at the Department of Public Instruction, 600 East Boulevard Avenue, Department 201, Bismarck, North Dakota 58505-0440. The application forms include:

1. A program agreement, which includes:
  - a. A provision that the institution shall accept final financial and administrative responsibility for management of an effective food service and comply with all program requirements;
  - b. Verification that the local agency will comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and all provisions required by the implementing regulations of the United States department of agriculture. Signature by an authorized representative of the local agency will serve as verification;
  - c. Verification of agreement that the local agency agrees to compile data, maintain records, and submit reports as required and permit authorized personnel to review such records, books, and accounts as needed to ascertain compliance with the program. Signature by an authorized representative of the

local agency will serve as verification. Such records must be maintained for three years plus the current year; and

d. A requirement that each sponsoring organization shall submit a management plan and administrative budget with its application for review and approval. The state agency will review and approve all individual budget line items, including administrative labor and benefits.

2. A renewal agreement, which must be presented annually to the local agency by the state agency for any appropriate revisions. Forms and information are forwarded to the local agency in August and must be returned for approval and renewal by September.

3. A free or reduced-price policy statement and attachments, which must be automatically renewed unless a new or updated statement is entered into by the state and local agency.

**History:** Effective February 1, 2000, Amended (*date rules go into effect*)

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 226.6

#### **67-21-04-06. Monitoring.**

The department of public instruction shall conduct onsite reviews of local agency program operations, as specified in the federal regulations, for the purpose of providing guidance and technical assistance to local agencies. All reviews must include the assessment of overclaims and appropriate corrective action.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-05, 28-32-02

**Law Implemented:** NDCC 15-54-05; 7 CFR 226.6

#### **67-21-04-07. Reimbursement claims.**

Local agencies shall submit claims for reimbursement using the child and adult care food program reimbursement claim form provided by the department of public instruction. Such claims are due on the tenth day of the month following the month of the claim. Federal reimbursement levels are determined on an annual basis according to federal law.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 226.7

#### **67-21-04-08. Meal service.**

All meals served under the program must meet the guidelines as stipulated in the federal regulations.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 226.20

#### **67-21-04-09. Food distribution.**

Certain local participating agencies, as prescribed in the federal regulations, must make an annual selection of accepting donated ~~commodities~~ United States department of agriculture foods or cash in lieu of ~~commodities~~ United States department of agriculture foods. The amount of commodities for both categories to which local agencies are entitled is determined by law and the availability of commodities.

**History:** Effective February 1, 2000, Amended (*date rules go into effect*)

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 226.5

#### **67-21-04-10. Health and safety.**

The local agency food service program must adhere to state and local health and food safety requirements, as adopted by the North Dakota state department of health, overviews of which are available from the department of public instruction. A school food service employee who functions as a food preparation site manager must complete training in food safety and sanitation as defined by the superintendent of public instruction. ~~The lead worker, as identified by the authorized representative, must complete a ten-hour initial course and subsequent update sessions once every three years. Certain agencies, because of the nature of meal service provided or the educational and training background of the lead worker, may be exempt from this requirement. In such cases, a waiver must be submitted by the local agency and approved by the department.~~

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03

#### **67-21-04-11. Fiscal management.**

Agencies must maintain a financial management system to account for revenues and expenditures of the food service program and to justify claims for reimbursement. The department requires authorized representatives of participating child care facilities to annually file a nonprofit status report to document that the center is maintaining a nonprofit financial status. Nonprofit status is further defined as an ending balance that does not exceed the value of three months of operating expenses.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-05; 7 CFR 226.8; 7 CFR 226.15; 7 CFR 226.16

#### **67-21-04-12. Family day care home sponsoring organization.**

The department of public instruction has established special provisions that apply to the family day care home sponsoring organizations.

1. Two of the three periodic monitoring visits made to day care home providers must be made without announcement.

2. Day care home providers may only switch sponsoring organizations at the beginning of a new federal fiscal year.
3. The administrative staff members of family day care home sponsorships may not directly solicit providers known to be currently operating under another sponsorship.
4. The department shall provide oversight in the budgetary planning of sponsoring organizations as stipulated in 7 CFR 226.16. Fiscal year salary adjustments or increases of sponsoring organization administrative staff members must be in line with the corresponding salary increases allowed employees of the state of North Dakota for the same time period.
5. Day care home providers who meet eligibility requirements may claim reimbursement for meals fed to their children only when other child care children are present and eating at the same meal service time.
6. Individuals who are employed by a family day care home sponsoring organization may not simultaneously participate under the same sponsorship as a provider.
7. An eligible family day care home must be a building that is currently a residence, ~~or a building that was originally built as a residence, or could be used as a residence with no additional remodeling. The facility must be currently inhabitable as determined by the family day care home sponsoring organization and the provider must certify that the provider resides in the facility.~~

**History:** Effective February 1, 2000, Amended (*date rules go into effect*)

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 226

#### **67-21-04-13. Procurement Standards.**

Local Agencies must comply with the requirements of the office of management and budget guidance for grants and agreements, 2CFR Part 200, concerning the procurement of supplies, food, equipment, and other services with program funds.

**History:** Effective (*date the rules take effect*)

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15-54-05; 2 CFR 200

## CHAPTER 67-21-05 SUMMER FOOD SERVICE PROGRAM

### Section

67-21-05-01	Purpose
67-21-05-02	State Agency
67-21-05-03	Use of Federal Funds <u>Rules and Policies</u>
67-21-05-04	Eligibility
67-21-05-05	Application
67-21-05-06	Monitoring
67-21-05-07	<u>Program Payments</u> <u>Reimbursement Claims</u>
67-21-05-08	Meal Service
<u>67-21-05-08.1</u>	<u>Food Distribution</u>
<u>67-21-05-08.2</u>	<u>Health and Safety</u>
67-21-05-09	Fiscal Management
<u>67-21-05-10</u>	<u>Procurement Standards</u>

### **67-21-05-01. Purpose.**

The program, initiated at the federal level and in partnership with the states, provides assistance to the state through grants-in-aid and other means to conduct nonprofit food service programs for children during the summer months and at other approved times. The primary purpose of the program is to provide food service to children from needy areas during periods when area schools are closed for vacation.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54

### **67-21-05-02. State agency.**

The department of public instruction has been designated as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the program for local agencies that wish to participate.

**History:** Effective February 1, 2000, amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03; 7 CFR 225.3

### **67-21-05-03. Use of federal funds rules and procedures.**

Unless otherwise specified in this chapter, eligibility to participate in the summer food service program is governed by federal summer food service program regulations. Local agencies must conform to lawfully issued regulations and policies relating to the program.

**History:** Effective February 1, 2000, amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 225

### **67-21-05-04. Eligibility.**



Local agencies eligible to participate include public and private nonprofit agencies including schools, camps, and migrant programs. The department of public instruction will determine the eligibility of applicant sponsors in accordance with criteria established in federal rule 7 CFR 225.43.6

**History:** Effective February 1, 2000, amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 225.6

#### **67-21-05-05. Application.**

Application forms are available at the Department of Public Instruction, 600 East Boulevard Avenue, Department 201, Bismarck, North Dakota 58505-0440. The application forms include:

1. Program agreement that includes:
  - a. Identification of the program or programs the local agency wants to participate in;
  - b. Verification that the local agencies will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the regulations of the United States department of agriculture (7 CFR Part 15), DOJ (28) CFR Parts 42 and 50) and food and nutrition directives or regulations issued pursuant to that act and the regulations, to the effect that, no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Program applicant received federal financial assistance from United States department of agriculture; and hereby gives assurance that it will immediately take any measures necessary to fulfill this agreement. Signature by an authorized representative of the local agency will serve as verification; and
  - c. The local agencies agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized United States department of agriculture personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the United States department of agriculture food and nutrition services shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from the United States department of agriculture. Signature by an authorized representative of the local agency will serve as verification. Such records must be maintained for three years after the end of the fiscal year to which they pertain.
2. Renewal agreement. This document is presented annually to the local agency by the State agency for any appropriate revisions. Forms and information are forwarded to the local agency in April and must be returned for approval and renewal before the start of the program. The renewal documentation includes:
  4. a. A site information sheet.

2. b. Documentation supporting the eligibility of the site as serving an area in which poor economic conditions exist, if not a camp or a homeless feeding site.

3. c. For camps, documentation showing the number of children enrolled who meet the program's income standards.

4. d. With site information for a homeless feeding site, information to demonstrate that the site is not a residential child care institution.

5. e. For national youth sports program sites, a certification that all children are enrolled in the national youth sports program.

6. f. Information to enable the department of public instruction to determine whether the applicant meets the criteria for participation in the program as set forth in 7 CFR 225.14, the extent of program payments needed including a request for advance and startup payments, and, if applicable, a staffing and monitoring plan.

7. g. A complete administrative and operating budget for approval by the department of public instruction.

8. h. A plan for and a synopsis of its invitation to bid for food service, if required.

3. 9. A free meal policy statement as defined in 7 CFR 225.6.

**History:** Effective February 1, 2000, amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 225.6

#### **67-21-05-06. Monitoring.**

The department of public instruction shall conduct onsite reviews of local agency program operations, as specified in the federal regulations, for the purpose of providing guidance and technical assistance to local agencies. All reviews must include the assessment of overclaims and appropriate corrective action.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-05, 28-32-02

**Law Implemented:** NDCC 15-54-05; 7 CFR 225.7

#### **67-21-05-07. Program payments Reimbursement claims.**

Program payments must be made to approved and operating local agencies upon the submission of the appropriate reports and claim forms. Claim forms are due on the tenth day of the month following the month of the claim. Federal reimbursement levels are determined on an annual basis according to federal law.

**History:** Effective February 1, 2000, amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 225.9

**67-21-05-08. Meal service.**

All meals served under the program must meet the guidelines as stipulated in the federal regulations.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-05; 7 CFR 225.16

**67-21-05-08.1. Food Distribution.**

Local agencies can receive United States department of agriculture foods or the value of entitlement through the federal food distribution program through three categories:

1. Entitlement United States department of agriculture foods, which are foods that local agencies are entitled to receive under the regulation and are distributed by the State contracted warehouse and transportation facility.
2. Local agencies can allocate a portion of their United States department of agriculture food entitlement into the Department of Defense Fresh Fruit and Vegetable Program. Local agencies place orders through the Department of Defense Fruit and Vegetable Ordering and Reporting System and receive deliveries from the nationally contracted distributor.
3. Bonus United States department of agriculture foods, which are foods that are offered by United States department of agriculture and do not deduct from United States department of agriculture food entitlement. These foods are periodic and only available if offered by the United States department of agriculture.

The amount of USDA food entitlement, to which local agencies are entitlement, is determined by 7 CFR 225.9.

**History:** Effective (*date rules take effect*)

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 7 CFR 225.9

**67-21-05-8.2. Health and Safety.**

The local agency food service program must adhere to state and local health and food safety requirements, as adopted by the North Dakota state department of health, overviews of which are available from the department of public instruction. A school food service employee who functions as a food preparation site manager must complete training in food safety and sanitation as defined by the superintendent of public instruction.

**History:** Effective (*date rules take effect*)

**General Authority:** NDCC15.1-35-03, 15.1-35-08, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 225.14

**67-21-05-09. Fiscal management.**

Local agencies must maintain accurate records that justify all costs and meals claimed.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-05; 7 CFR 253.15

**67-21-05-10. Procurement Standards.**

Local agencies must comply with the requirements of the office of management and budget guidance for grants and agreements, 2 CFR Part 200 concerning the procurement of supplies, food, equipment, and other services with program funds.

**History:** Effective (*date rules take effect*)

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-03, 15-54-05; 2 CFR 200

## CHAPTER 67-21-06 FOOD DISTRIBUTION PROGRAM

### Section

67-21-06-01	Purpose
67-21-06-02	State Agency
67-21-06-03	Use of Federal Rules and Policies
67-21-06-04	Eligibility
67-21-06-05	Agreements
67-21-06-06	Distribution and Control of <del>Donated</del> <u>United States Department of Agriculture</u> Foods
67-21-06-07	Storage of <del>Commodity</del> <u>United States Department of Agriculture</u> Foods - Standards for Storage Facilities
67-21-06-08	Financial Management
67-21-06-09	Maintenance of Records
67-21-06-10	Monitoring
67-21-06-11	Buy American
67-21-06-12	Civil Rights
67-21-06-13	<u>Procurement</u>

#### **67-21-06-01. Purpose.**

The food distribution program, initiated at the federal level and in partnership with the states, is designed to make ~~commodity~~ United States department of agriculture foods available to participating states and local agencies to safeguard the health and well-being of the nation's people with better diets and to encourage the domestic consumption of nutritious agricultural commodities and other foods produced by American farmers.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54, 7CFR 250

#### **67-21-06-02. State agency.**

The department of public instruction has been designated by the United States department of agriculture as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the all United States department of agriculture food distribution programs ~~program~~.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03; 7 CFR 250.40 ~~4~~

#### **67-21-06-03. Use of federal rules and policies.**

Unless otherwise specified in this chapter, eligibility to participate in the food distribution program is governed by federal food distribution rules. The local program must conform to lawfully issued rules and policies relating to the food distribution program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 250

**67-21-06-04. Eligibility.**

Local agencies and programs eligible for participation in the food distribution program include:

1. Nonprofit summer camps for children.
2. Charitable institutions.
3. Nutrition programs for the elderly.
4. Disaster feeding organizations.
5. Food assistance in situations of distress.
6. School food authorities.
7. Nonresidential child and adult care institutions.
8. Soup kitchens and food banks.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 250.10

**67-21-06-05. Agreements.**

A local agency shall enter into a written program specific agreement with the department as outlined in 7 CFR 250. Signature by an authorized representative of the local agency or program will serve as verification. Such records must be maintained for three years after the end of the fiscal years to which they pertain.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 250.12 4

**67-21-06-06. Distribution and control of ~~donated~~ United States department of agriculture foods.**

~~Donated~~ United States department of agriculture foods shall be available for distribution and use in accordance with the provisions of 7 CFR 250. ~~Donated~~ United States department of agriculture foods may not be sold, exchanged, or otherwise disposed of without approval of the department. Any transfer of ~~donated~~ United States department of agriculture food must be documented. The quantity of ~~donated~~ United States department of agriculture foods to be made available is determined in accordance with pertinent legislation. ~~Donated~~ United States department of agriculture foods shall be requested and distributed only in quantities that can be consumed without waste. The department will consistently use the ~~commodity~~ United States department of agriculture food value established by the United States department of agriculture in when allocated allocating ~~commodity~~ United States department of agriculture foods. The department will maintain a monthly distribution schedule that provides equitable and reliable deliveries to local and recipient agencies. The department will distribute ~~donated~~ United States department of agriculture foods only to local and recipient agencies that are eligible.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 250.13

**67-21-06-07. Storage of commodity United States department of agriculture foods - Standards for storage facilities.**

Recipient Local and recipient agencies shall provide facilities for the handling, storage, and distribution of ~~donated~~ United States department of agriculture foods which are sanitary; provide safeguards against theft, spoilage, and other loss; maintain foods at proper temperature; and stock and space foods in a manner so that the ~~donated~~ United States department of agriculture food is readily identified inventory. ~~Recipient-Local and recipient agencies~~ shall take a physical inventory of ~~donated~~ United States department of agriculture food annually according to the specific regulations of each program. The department shall take a physical inventory of USDA foods at all state contracted warehouse facilities. Excess inventory must be reported to the department.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 250.14

**67-21-06-08. Financial management.**

Recipient Local and recipient agencies shall use program funds to pay part of all or part of the direct costs for intrastate storage and distribution of ~~donated~~ United States department of agriculture food. The department acts as a pass-through entity and uses state and federal program funding to pay for warehouse and transportation expenses on behalf of those programs receiving USDA foods from a state contracted warehouse facility. The department shall advise agencies annually of the fees and processes for remitting payment for these services. Local agencies that have depleted their state program funding are responsible for payment of warehousing and transportation within thirty days of shipment. A notice of nonpayment must be sent to local agencies if payment is not received on time. If payment is not received within sixty days of shipment, future shipments may be canceled. Recipient agencies are required to replace or pay for loss or damaged food as stipulated in 7 CFR 250.15(c).

**History:** Effective February 1, 200, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-04, 15-54-05; 7 CFR 250.15-17

**67-21-06-09. Maintenance of records.**

Recipient Local and recipient agencies shall maintain accurate and complete records regarding the receipt, distribution, use, and inventory of ~~donated~~ United States department of agriculture food including end products processed from bulk USDA foods ~~donated food~~. All records required under 7 CFR 250.46 19 must be retained for three years from the close of the fiscal year to which they pertain, unless there are claims or audit findings that have not been resolved.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-05; 7 CFR 250.46 19

#### **67-21-06-10. Monitoring.**

The state agency shall conduct onsite reviews of local agency program operations ~~once every four years for the purpose of providing guidance and technical assistance to local agencies according to the federal requirements set forth for each food distribution program.~~ The state agency will conduct an annual on-site review of state contracted warehouse and transportation facility operations.

**History:** Effective February 1, 2000, Amended (date rules take effect).

**General Authority:** NDCC 15-54-05, 28-32-02

**Law Implemented:** NDCC 15-54-05; 7 CFR 250.49 21

#### **67-21-06-11. Buy American.**

~~Recipient~~ Local and recipient agencies, whenever possible, shall purchase only food products that are produced in the United States when using federal funds. When funds obtained in accordance with this section are used to purchase foods in the commercial market, a distributing or recipient agency in the continental United States, and in Hawaii, must, to the maximum extent practical, purchase only domestic foods or food products. Such requirement is also applicable to food purchases made with the cash-in-lieu-of-donated foods provided in national school lunch program and child and adult care food program, in accordance with 250.56(e) and 250.61(c). For the purposes of this section, domestic foods or food products are:

(1) Agricultural commodities that are produced in the United States; or

(2) Food products that are processed in the United States substantially using agricultural commodities that are produced in the United States.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 250.23 17

#### **67-21-06-12. Civil rights.**

Local agencies shall comply with the United States department of agriculture nondiscrimination regulations as referenced in 7 CFR parts 15, 15a, and 15b, and with civil rights instructions.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03; 7 CFR 250.21

#### **67-21-06-13. Procurement.**

The state agency and local agencies shall comply with the requirements in 2 CFR 200 and 400, as applicable, in purchasing end products, distribution, or other processing services from processors. The state agency and local agencies may use procurement procedures that conform to applicable State or local laws and regulations but must ensure compliance with the procurement requirements in 2 CFR 200 and 400, as applicable.



**History:** Effective (*date rules take effect*)

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 2 CFR 200, 2 CFR 400

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## CHAPTER 67-21-07 FOOD DISTRIBUTION ON INDIAN RESERVATIONS

Section	Purpose
67-21-07-01	Purpose
67-21-07-02	State Agency
67-21-07-03	Use of Federal Rules and Policies
67-21-07-04	<u>Commodity Control Availability of United States Department of Agriculture Foods, Storage, and Distribution</u>
67-21-07-04.1	Eligibility
67-21-07-04.2	Monitoring
67-21-07-05	Administrative Payments

### **67-21-07-01. Purpose.**

The food distribution program on Indian reservations, initiated at the federal level and in partnership with the states, authorizes the receipt and distribution of ~~commodity~~ United States department of agriculture foods by state agencies to tribal organizations.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54, 7 CFR 253.1

### **67-21-07-02. State agency.**

The department of public instruction has been designated by the United States department of agriculture as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the program for tribal organizations that wish to participate in this program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03; 7 CFR 253.3

### **67-21-07-03. Use of federal rules and policies.**

Unless otherwise specified in this chapter, eligibility to participate in the food distribution program on Indian reservations is governed by federal rules. The tribal organization shall conform to lawfully issued rules and policies relating to the food distribution program.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 253

### **67-21-07-04. Commodity control, storage, and distribution.**

Tribal organizations are eligible to receive ~~commodities~~ United States department of agriculture foods that are made available under the Food and Nutrition Act of 2008 program. ~~The commodities must be allocated to tribal organizations on the basis of the food issuance rates established in the federal rules. Delivery must be arranged upon the receipt of a valid order from the tribal organization.~~ Shipments of ~~commodities~~ United States department of

agriculture foods to tribal organizations must be made under the terms of the existing state transportation contract and in accordance with a schedule jointly determined by the department and the tribal organization. Tribal organizations shall maintain control of and accountability for ~~commodities~~ United States department of agriculture foods, conduct inventories as necessary, provide and maintain adequate and appropriate storage facilities, and distribute the United States department of agriculture foods ~~commodities~~ to individuals on the basis of established eligibility. ~~The department will take action to obtain restitution in connection with claims arising for improper distribution, use, loss, or damage of commodities.~~

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 253.8-10

#### **67-21-07-04.1 Eligibility.**

Within the department of agriculture, the food and nutrition service determines if an Indian tribal organization is capable of effective and efficient administration of the program. If the food and nutrition service determines that the Indian tribal organization is not capable of effective and efficient administration of the program, the appropriate agency of the state government shall be responsible for the program on all or part of the Indian reservation. The appropriate agency of the state government may administer the program on behalf of an otherwise capable tribe if agreed to in writing by both parties.

**History:** Effective Date (*date rules take effect*)

**General Authority:** NDCC 15.1-35-03;28-32-02

**Law Implemented:** NDCC 15.1-35-03, 7 CFR 253.4

#### **67-21-07-04.2 Monitoring.**

The Department of Public Instruction shall conduct annual onsite reviews of tribal organization program operations, as specified in the federal regulations, for the purpose of providing guidance and technical assistance to local agencies. All reviews must ensure that tribal organizations meet program requirements and objectives. Program deficiencies must be documented and specific plans of corrective action for deficiencies must be established and implemented.

**History:** Effective Date (*date rules take effect*)

**General Authority:** NDCC 15.1-35-03;28-32-02

**Law Implemented:** NDCC 15.1-35-03, 7 CFR 253.5

**67-21-07-05. Administrative payments.**

The department shall reimburse **tribal organizations not considered to be Indian tribal organizations** for costs that are allowable under the federal rule 7 CFR 253.9 11, in accordance with the approved tribal organization budget. The Department will also use administrative funds to cover all warehouse and transportation expenses for those Indian tribal organizations whom receive USDA foods from the State contracted warehouse facility.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 253.9 11

## CHAPTER 67-21-08 THE EMERGENCY FOOD ASSISTANCE PROGRAM

Section	
67-21-08-01	Purpose
67-21-08-02	State Agency
67-21-08-03	Use of Federal Rules and Policies
67-21-08-04	Availability of <u>United States Department of Agriculture Foods, storage, and distribution</u> <del>Commodities</del>
67-21-08-05	Eligibility
<u>67-21-08-05.1</u>	<u>Monitoring</u>
67-21-08-06	Distribution Plan <u>(repealed)</u>
67-21-08-07	Administrative Payments

### **67-21-08-01. Purpose.**

The emergency food assistance program, initiated at the federal level and in partnership with the states, authorizes the receipt and distribution of ~~commodity~~ United States department of agriculture foods by state agencies to eligible local emergency feeding organizations.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54; 7 CFR 251.1

### **67-21-08-02. State agency.**

The department of public instruction has been designated by the United States department of agriculture as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the program for local agencies that wish to participate.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03; 7 CFR 251.2

### **67-21-08-03. Use of federal rules and policies.**

Unless otherwise specified in this chapter, eligibility to participate in the emergency food assistance program is governed by federal rules. The local program shall conform to lawfully issued rules and policies relating to the food distribution program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 251

### **67-21-08-04. Availability of ~~commodities~~ United States department of agriculture foods, storage, and distribution.**

Emergency feeding organizations are eligible to receive ~~commodities~~ United States department of agriculture foods that are made available under sections 202 and 214 of the Emergency Food Assistance Act of 1983. The availability and control of donated commodities must be in

accordance with ~~section 40 251.4 of the Emergency Food Assistance Act of 1983~~ the federal regulations 7 CFR 251.4 availability of commodities. The department of public instruction establishes an annual allocation of food entitlement for participating emergency feeding organizations on the basis of participation.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 251.4, 7 CFR 251.6

#### **67-21-08-05. Eligibility.**

Local agencies and programs eligible for participation in the emergency food assistance program are public and nonprofit private organizations that have entered into an agreement with the department of public instruction to provide nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons. Emergency feeding organizations include food pantries ~~charitable institutions~~, food banks, hunger centers, soup kitchens, and similar public or private nonprofit eligible recipient agencies.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 251.35

#### **67-21-08-05.1 Monitoring.**

The department of public instruction shall conduct onsite reviews of local agency and sub-recipient agency program operations, as specified in the federal regulations, for the purpose of providing guidance and technical assistance to local agencies. All reviews must ensure that local agencies meet program requirements and objectives.

**History:** Effective (*date rules take effect*)

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03; 7 CFR 251.10

#### **67-21-08-06. Distribution plan.**

~~The department of public instruction shall establish an annual commodity distribution plan order under which commodities are allocated to participating emergency feeding organizations on the basis of participation. Repealed effective (*date rules take effect*).~~

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 251.6

#### **67-21-08-07. Administrative payments.**

The department of public instruction shall provide administrative payments to emergency feeding organizations to support expenses associated with the storage and further distribution of United States department of agriculture foods commodities. Administrative funds are allocated to participating emergency feeding organizations on the basis of individual participation.

**History:** Effective February 1, 2000, Amended (*date rules take effect*).

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05; 7 CFR 251.8

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## CHAPTER 67-21-0909

### THE COMMODITY SUPPLEMENTAL FOOD PROGRAM

#### Section

67-21-09-01 Purpose

67-21-09-02 State Agency

67-21-09-03 Use of Federal Rules and Policies

67-21-09-04 Availability of ~~United States Department of Agriculture~~SDA Foods, Storage and Distribution

67-21-09-05 Eligibility

67-21-09-06 Monitoring

67-21-09-07 Administrative Payments

#### 67-21-09-01 Purpose.

The ~~c~~Commodity ~~s~~Supplemental ~~f~~Food ~~p~~Program, initiated at the federal level and in partnership with the states, authorizes the receipt and distribution of ~~United States department of agriculture~~SDA foods by state agencies to eligible local agencies.

History: Effective ~~(date rules take effect)~~Date

General Authority: NDCC 15-54-03, 28-32-02

Law Implemented: NDCC Ch. 15-24, 7 CFR 247.2

#### 67-21-09-02 State ~~a~~Agency.

The ~~d~~Department of ~~p~~Public ~~i~~nstruction has been designated by the United States ~~d~~Department of ~~a~~Agriculture as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the program for local agencies that wish to participate in this manner.

History: Effective ~~(date rules take effect)~~Date

General Authority: NDCC 15-54-03, 28-32-02

Law Implemented: NDCC 15-54-03, 15-54-05, 7 CFR 247.3

#### 67-21-09-03 Use of federal rules and policies.

Unless otherwise specified in this chapter, eligibility to participate in the commodity supplemental food program is governed by federal rules. The local program shall conform to lawfully issued rules and policies relating to the food distribution program.

History: Effective ~~(date rules take effect)~~Date

General Authority: NDCC 15-54-03, 28-32-02



**Law Implemented:** NDCC 15-54-03, 15-54-05, 7 CFR 247

**67-21-09-04Availability of United States department of agriculture USDA foods, storage and distribution.**

Local agencies are eligible to receive United States department of agricultureUSDA foods that are made available under the Agriculture and Consumer Protection Act of 1973 and the Agricultural Act of 2014. The availability and control of donated United States department of agriculture USDA foods must be in accordance with section 247.10 of Title 7 of the cCode of fFederal rRegulations for the cCommodity sSupplemental fFood pProgram.

**History:** Effective *(date rules take effect)*Date

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05, 7 CFR 247.10

**67-21-09-05Eligibility.**

Local agencies and programs eligible for participation in the cCommodity sSupplemental fFood pProgram are public and nonprofit private organizations that have entered into an agreement with the dDepartment of pPublic iInstruction to provide nutrition assistance to low-income elderly persons. Local agencies include cCommunity aAction aAgencies, food banks, hunger centers, and similar public or private nonprofit local agencies.

**History:** Effective *(date rules take effect)*Date

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05, 7 CFR 247.7 and 247.9

**67-21-09-06Monitoring.**

The dDepartment of pPublic iInstruction shall conduct onsite reviews of local agency program operations, as specified in the federal regulations, for the purpose of providing guidance and technical assistance to local agencies. All reviews must ensure that local agencies meet program requirements and objectives.

**History:** Effective *(date rules take effect)*Date

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05, 7 CFR 247.34

**67-21-09-07Administrative payments.**

The ~~dDe~~partment of ~~pP~~ublic ~~iI~~nstruction shall provide administrative payments to local agencies to support expenses associated with the storage and further distribution of ~~United States department of agriculture USDA~~~~f~~Foods. Administrative funds are allocated to participating local agencies based on a submitted budget and on the basis of individual participation.

**History:** Effective *(date rules take effect)*~~Date~~

**General Authority:** NDCC 15-54-03, 28-32-02

**Law Implemented:** NDCC 15-54-03, 15-54-05, 7 CFR 247.23 and 247.25

## **CHAPTER 67-21-10**

### **FRESH FRUIT AND VEGETABLE PROGRAM**

#### **Section**

**67-21-04-01 Purpose**

**67-21-04-02 State Agency**

**67-21-04-03 Use of Federal Rules and Policies**

**67-21-04-04 Eligibility**

**67-21-04-05 Application**

**67-21-04-06 Outreach**

**67-21-04-07 Notice of Availability**

**67-21-04-08 Per-Student Grant**

**67-21-04-09 Monitoring**

**67-21-04-10 Reimbursement Claims**

**67-21-04-11 Health and Safety**

#### **67-21-04-01. Purpose.**

The fresh fruit and vegetable program, initiated at the federal level and in partnership with the states, is designed to provide free fresh fruits and vegetables to students in participating elementary schools during the school day at times other than breakfast, lunch or after school snack and to encourage healthier school environments by promoting nutrition education and expansion of the variety of fruits and vegetables that children experience, through grants-in-aid and other means.

**History:** Effective (date rules take effect)

**General Authority:** NDCC 15.1-35-02, 28-32-02

**Law Implemented:** NDCC 15.1-35-01; Sec. 19 [U.S.C. 1769a]

#### **67-21-04-02. State agency.**

The department of public instruction has been designated by the United States department of agriculture as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the program.

**History:** Effective (date rules take effect)

**General Authority:** NDCC15.1-35-02, 28-32-02

**Law Implemented:** NDCC15.1-35-01; Sec. 19 [U.S.C. 1769a]

#### **67-21-04-03. Use of federal rules and policies.**

Unless otherwise specified in this chapter, eligibility to participate in the fresh fruit and vegetable program is governed by federal regulations. The local program must conform to lawfully issued rules and policies relating to the federal fresh fruit and vegetable program.

**History:** Effective (*date rules take effect*)

**General Authority:** NDCC15.1-35-02, 28-32-02

**Law Implemented:** NDCC15.1-35-01; Sec. 19 [U.S.C. 1769a]

#### **67-21-04-04. Eligibility.**

Local agencies eligible for participation in fresh fruit and vegetable program include:

1. Educational units of elementary school grade, recognized as part of the educational system in the state;
2. Schools must participate in the national school lunch program in order to operate the fresh fruit and vegetable program.
3. Section 19 of the National School Lunch Act requires that schools with the highest free and reduced-price enrollment be given priority for participation in the fresh fruit and vegetable program.

**History:** Effective (*date rules take effect*)

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-01; Sec. 19 [U.S.C. 1769a]

#### **67-21-04-05. Application.**

Local educational agencies must submit a fresh fruit and vegetable application that includes:

- a. the total number of enrolled children;
- b. the percentage of children certified as eligible for free and reduced-price meals;
- c. a certification of support for participation of the fresh fruit and vegetable program signed by the school food service manager, the school principal and the district superintendent.
- d. a program implementation plan, including efforts to integrate the fresh fruit and vegetable program with other efforts to promote childhood health and nutrition.

**History:** Effective (*date rules take effect*)

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.9; Sec. 19 [U.S.C. 1769a]

#### **67-21-04-06. Outreach**

Prior to making decisions regarding school participation in the program, the State agency shall inform the schools within the State with the highest proportion of free and reduced-price meal eligibility, including Native American schools, of the eligibility of the schools for the program with respect to priority granted to schools with the highest proportion of free and reduced-price eligibility.

In providing information to high priority schools, a State agency shall inform the schools that would likely be chosen to participate in the program.

**History:** Effective *(date rules take effect)*

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.9; Sec. 19 [U.S.C. 1769a]

#### **67-21-04-07. Notice of Availability**

If selected to participate in the program, a school shall widely publicize within the school the availability of free fresh fruits and vegetables under the program.

**History:** Effective *(date rules take effect)*

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.9; Sec. 19 [U.S.C. 1769a]

#### **67-21-04-8. Per-Student Grant**

The per-student grant provided to a school shall be determined by the State agency and shall not be less than \$50, nor more than \$75.

**History:** Effective *(date rules take effect)*

**General Authority:** NDCC15.1-35-03, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210.9; Sec. 19 [U.S.C. 1769a]

#### **67-21-04-9. Monitoring.**

The department of public instruction will conduct onsite reviews of local agency program operations as specified by federal regulation for the purpose of providing guidance and technical assistance to local agency food service programs. All such reviews will include the assessment of claims by the state agency for any overpayment and appropriate corrective action.

**History:** Effective *(date rules take effect)*

**General Authority:** NDCC15.1-35-05, 28-32-02

**Law Implemented:** NDCC15.1-35-01; 7 CFR 210; Sec. 19 [U.S.C. 1769a]

#### **67-21-04-10. Reimbursement claims.**

Local agencies are required to submit claims for reimbursement using the basic claim for reimbursement form provided by the department of public instruction. Such claims are due on the tenth day of the month following the month of the claim.

**History:** Effective *(date rules take effect)*

**General Authority:** NDCC15.1-35-05, 28-32-02

**Law Implemented:** NDCC15.1-35-01; Sec. 19 [U.S.C. 1769a]

#### **67-21-04-11. Health and safety.**

The local agency food service program must adhere to state and local health and food safety requirements, as adopted by the North Dakota state department of health, overviews of which are available from the department of public instruction.

**History:** Effective *(date rules take effect)*

**General Authority:** NDCC15.1-35-03, 15.1-35-08, 28-32-02

**Law Implemented:** NDCC15.1-35-01

## **ARTICLE 67-23 SPECIAL EDUCATION**

### **Chapter**

- 67-23-01 Comprehensive General Plan Requirements for Special Education Programs
- 67-23-02 State Funding for Special Education
- 67-23-03 Federal Funding for Special Education
- 67-23-04 Special Education Dispute Resolution Options and Appeals [Repealed]
- 67-23-05 Special Education Dispute Resolution
- 67-23-06 Response to Intervention

## **CHAPTER 67-23-01 COMPREHENSIVE GENERAL PLAN REQUIREMENTS FOR SPECIAL EDUCATION PROGRAMS**

### **Section**

- 67-23-01-01 Definitions
- 67-23-01-02 School District's Comprehensive General Plan Requirements for Education of Students With Disabilities
- 67-23-01-03 Timelines - Exception to Sixty-Day Time Frame for Initial Evaluation

### **67-23-01-01. Definitions.**

As used in this article, the following definitions apply:

1. "Individualized education program" or "IEP" means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with the IDEA section 614(d) [20 U.S.C. 1414(d)].
2. "Individuals With Disabilities Education Act" or "IDEA" means the Individuals With Disabilities Education Improvement Act of 2004, Public Law 108-446 [118 Stat. 2647; 20 U.S.C. 1400-1420].
3. "Least restrictive environment" means that to the maximum extent appropriate, children with disabilities are educated with children who are not disabled and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
4. "Local education agency" means a school district, multidistrict special education unit organized under North Dakota Century Code chapter 15.1-33, or other legally constituted public authority for administrative control or direction of, or to perform a service function for, public elementary or secondary schools.
5. "Multidisciplinary team" means a team of professionals and parents which develops an IEP for a student with disabilities.

6. "Multidistrict special education unit" means a public corporation organized under North Dakota Century Code chapter 15.1-33 for purposes of planning and delivering special education and related services.

7. "Nonsectarian" means not affiliated with or restricted to a particular religion.

8. "Organization" includes school districts, multidistrict local education agencies, child care centers, vocational education centers, private or public residential facilities, counties, and nonprofit agencies.

9. "Related services" means transportation and developmental, corrective, or supportive services needed to help a student with disabilities to benefit from special education.

10. "Resident district" means the school district of residence of the student as determined by law.

11. "Special education unit" means a single-district special education unit or a multidistrict special education unit.

12. "Student with disabilities" or "child with disabilities" means an individual who:

- a. Is at least three years of age but who has not reached the age of twenty-one before ~~September~~ August first of the year in which the individual turns twenty-one, and who because of mental, physical, emotional, or learning characteristics requires regular or special education and related services designed to meet the individual's educational needs; and
- b. Is an individual with mental retardation, hearing impairment including deafness, speech or language impairment, visual impairment including blindness, emotional disturbance, orthopedic impairment, autism, traumatic brain injury, other health impairment, specific learning disability, deaf-blindness, or multiple disabilities.

**History:** Effective February 1, 2000; amended effective January 1, 2008, amended effective (date rules take effect).

**General Authority:** NDCC 15.1-32-09

**Law Implemented:** NDCC 15.1-32-09; 20 USC 1400-1419

**67-23-01-02. School district's comprehensive general plan requirements for education of students with disabilities.**

Each school district in the state shall have a comprehensive general plan for the education of students with disabilities between the ages of three and twenty-one who reside in that district.

The plan must:

1. Be filed with the superintendent of public instruction; and
2. Describe the multidistrict special education unit organizational and services plan or the organization of services for a single-district special education unit, including:
  - a. Description of the organization, including participating school districts in multidistrict special education units;
  - b. Structure and organization of the board;



- c. Powers and duties of the board;
- d. Monetary policies including fiscal management and method of apportioning administrative and program costs;
- e. Procedures for withdrawing from or joining a multidistrict unit, not including single district units;
- f. Services description;
- g. Unit or district policies and procedures for implementing the provisions of state law and the Individuals With Disabilities Education Act; and
- h. Letters of agreement from participating school districts, not including single-district units.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15-59-04, 15-59-05, 15-59.2-01

**Law Implemented:** NDCC 15-59-05, 15-59.2-01, 15-59.2-02, 15-59.2-05; 20 USC 1400-1419

**67-23-01-03. Timelines - Exception to sixty-day time frame for initial evaluation.**

The district must evaluate a referred child within sixty calendar days after obtaining parental consent for the evaluation unless:

1. An extension is necessary because of extreme weather that prevented or interfered with the evaluation and the extreme weather condition is documented; or
2. Either party establishes to the satisfaction of the department that access to a qualified evaluator is so limited that the evaluation cannot occur in the initial sixty days. The evaluation period, including an extension for the circumstances described above, may not exceed ninety calendar days.

**History:** Effective October 1, 2009.

**General Authority:** NDCC 15.1-32-09

**Law Implemented:** NDCC 15.1-32; 20 USC 1414

**CHAPTER 67-11-03.4**  
**READING AND MATHEMATICS CREDENTIALS**

Section

<u>67-11-03.4-01</u>	<u>Requirements for Reading Credentials in grades Kindergarten through Eight</u>
<u>67-11-03.4-02</u>	<u>Requirements for Mathematics Credentials in grades Kindergarten through Eight</u>
<u>67-11-03.4-03</u>	<u>Requirements for Mathematics Credentials in Grades Five Through Twelve</u>
<u>67-11-03.4-04</u>	<u>Requirements for Secondary Generalist Title I Teacher</u>
<u>67-11-03.4-05</u>	<u>Application Process</u>
<u>67-11-03.4-06</u>	<u>Renewals</u>
<u>67-11-03.4-07</u>	<u>Use of Federal Rules and Policies</u>

**67-11-03.4-01. Requirements for Title I reading credentials in grades kindergarten through eight.** A reading teacher, who works directly or indirectly with students who have failed to benefit from regular classroom instruction in reading in grades kindergarten through eight, may obtain a title I credential to teach reading. To obtain a title I reading credential to teach students in an elementary school setting, a teacher must:

1. Hold a valid North Dakota educator's professional license;
2. Have a major or endorsement in elementary education;
3. Have completed the required coursework from a state-approved institution of higher education, including:
  - a. Two semester hours in diagnosis and correction of reading disabilities which may not be from a workshop;
  - b. Two semester hours in clinical or laboratory practicum in reading which may not be from a workshop; and
  - c. Two semester hours in reading in the content areas which may be from a workshop; and
4. Complete a minimum of eight semester hours with a minimum of three courses from the areas on the following list. No more than two courses can come from the same area listed below to fulfill this requirement:
  - a. Early childhood;
  - b. Research and literature in reading or language arts;
  - c. Exceptional child;

- d. Creative language activities, including poetry for children, storytelling, writing, and dramatics; or
- e. Curriculum development.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 15.1-02-16, 28-32-02; Pub. L. 107-110, § 1119

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11; Pub. L. 107-110, § 1119

**67-11-03.4-02. Requirements for Title I mathematics credentials in grades kindergarten through eight.** A mathematics teacher who works directly or indirectly with students who have failed to benefit from regular classroom instruction in mathematics in grades kindergarten through eight may obtain a Title I credential to teach mathematics. To obtain a Title I mathematics credential to instruct students in grades kindergarten through eight, a teacher must:

1. Hold a valid North Dakota educator's professional license;
2. Have a major or endorsement in elementary education; and
3. Have completed a minimum of six semester hours in mathematics.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 15.1-02-16, 28-32-02; Pub. L. 107-110, § 1119

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11; Pub. L. 107-110, § 1119

**67-11-03.4-03. Requirements for Title I mathematics credentials in grades five through twelve.** A mathematics teacher who works directly or indirectly with students who have failed to benefit from regular classroom instruction in mathematics in grades five through twelve may obtain a title I credential to teach mathematics. To obtain a mathematics credential to instruct students in grades five through twelve a teacher must:

1. Hold a valid North Dakota educator's professional license; and
2. Have a major, minor, or major equivalency endorsement in mathematics at the secondary level.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 15.1-02-16, 28-32-02; Pub. L. 107-110, § 1119

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11; Pub. L. 107-110, § 1119

**67-11-03.4-04. Requirements for secondary generalist title I teacher.** A teacher who instructs students in a secondary school setting in any content subject where reading is a required skill may obtain a credential to instruct students. To obtain a credential to instruct students in a secondary school setting who have failed to benefit from regular classroom instruction in any content subject where reading is a required skill a teacher must:

1. Hold a bachelor's degree or endorsement in secondary education as prescribed by the education standards and practices board;
2. Hold a valid North Dakota educator's professional license in the area of English, social studies, or science; and
3. Complete a minimum of six semester hours of the required coursework including a minimum of two semester hours in any three of the following course areas:
  - a. Foundations or survey of reading;
  - b. Reading in the secondary school;
  - c. Diagnosis and correction of reading disabilities;
  - d. Clinical or laboratory practicum in reading with secondary students;
  - e. Research and the literature in reading or language arts;
  - f. Exceptional child;
  - g. Curriculum development;
  - h. English education methods; or
  - i. Reading in the content areas.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 15.1-02-16, 28-32-02; Pub. L. 107-110, § 1119

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11; Pub. L. 107-110, § 1119

**67-11-03.4-05. Application process.** An applicant for a credential or initial credential must submit to the title I office:

1. A completed online application; and
2. A copy of the applicant's official transcripts.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 15.1-02-16, 28-32-02; Pub. L. 107-110, § 1119

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11; Pub. L. 107-110, § 1119

**67-11-03.4-06. Renewals.** A credential issued under this chapter is valid only while the credentialed individual holds a valid North Dakota educator's professional license. An applicant for renewal of a credential issued under this chapter must:

1. Renew the credential prior to the expiration of the applicant's educator's professional license or every five years if the applicant has a life license;
2. Provide a copy of official transcripts;
3. Submit a completed online application; and
4. Complete continuing education requirements as follows:
  - a. Except when a first-time credential issued under this chapter will expire within twenty-four months of issuance of the new credential because the educator's professional license will expire, the applicant must complete four semester hours of graduate level credit before the expiration date of the applicant's credential.
    - (1) The credits must be in mathematics if the credential being renewed is for mathematics;
    - (2) The credits must be in reading if the credential being renewed is for reading;
    - (3) The credits must consist of two each in reading and mathematics if the applicant is renewing both a mathematics and reading credential; and
    - (4) The credits must consist of education content related courses if the credential being renewed is a secondary generalist title I teacher credential.

- b. An applicant who holds a two-year educator's professional license must complete two semester hours of graduate level credit before the expiration date of the applicant's credential.
- (1) The credits must be in mathematics if the credential being renewed is for mathematics;
  - (2) The credits must be in reading if the credential being renewed is for reading;
  - (3) The credits must consist of one each in reading and mathematics if the applicant is renewing both a mathematics and reading credential; and
  - (4) The credits must consist of education-related courses if the credential being renewed is a secondary generalist title I teacher credential.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 15.1-02-16, 28-32-02; Pub. L. 107-110, § 1119

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11; Pub. L. 107-110, § 1119

**67-11-03.4-07. Use of federal rules and policies.** Unless otherwise specified in this chapter, eligibility to participate in the title I program is governed by federal regulations. The local program must conform to lawfully issued rules and policies relating to the title I program.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-02-04, 15.1-02-11, 15.1-02-16, 28-32-02; Pub. L. 107-110, § 1119

**Law Implemented:** NDCC 15.1-02-04, 15.1-02-11; Pub. L. 107-110, § 1119

## **CHAPTER 67-11-03.5**

### **TITLE I COORDINATOR CREDENTIAL**

#### **Section**

<u>67-11-03.5-01</u>	<u>Requirements for a Title I Coordinator Credential</u>
<u>67-11-03.5-02</u>	<u>Duties of Title I Coordinators</u>
<u>67-11-03.5-03</u>	<u>Application for Title I Coordinator Credentials</u>
<u>67-11-03.5-04</u>	<u>Renewal of Title I Coordinator Credentials</u>

#### **67-11-03.5-01. Requirements for a title I coordinator credential.**

1. The department issues credentials for title I coordinators. A title I coordinator credential is issued to coincide with the period for which the individual is licensed to teach or approved to teach by the North Dakota education standards and practices board; however, an individual holding a lifetime educator's professional license must renew the individual's credential every five years. A title I coordinator credential may be obtained to recognize the qualifications and duties of persons who coordinate title I programs but are not paid with title I funds. A title I coordinator credential is available for individuals paid to any extent with title I funds who assume duties as described in subsection 2.
2. To obtain a title I coordinator credential, a person must:
  - a. Hold a valid North Dakota educator's professional license;
  - b. Have a major or endorsement in elementary, middle school, or secondary education; and
  - c. Have one of the following:
    - i. A master's degree in an educational field from a state-approved program; or
    - ii. Hold an elementary, middle school, or secondary title I teacher's credential issued under this article and have a minimum of three years of title I teaching experience.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-02-16(8); 20 USC 6319

**Law Implemented:** NDCC 15.1-02-16(8); 20 USC 6319

#### **67-11-03.5-02. Duties of title I coordinators.**

A title I coordinator performs the job duties of coordinating a districtwide or school title I program, including development of budgets, preparation of a consolidated title I application, training title I staff, submitting title I reports, planning and conducting parent and family engagement activities, facilitating professional development, conducting the annual evaluation of the program, and may also supervise one or more title I teachers.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-02-16(8); 20 USC 6319

**Law Implemented:** NDCC 15.1-02-16(8); 20 USC 6319

#### **67-11-03.5-03. Application for title I coordinator credentials.**

An applicant for a title I coordinator credential must submit an online application.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-02-16(8); 20 USC 6319

**Law Implemented:** NDCC 15.1-02-16(8); 20 USC 6319

**67-11-03.5-04. Renewal of title I coordinator credentials.**

1. A credential issued under this chapter is valid only while the credentialed individual holds a valid North Dakota educator's professional license.
2. An applicant for renewal of a title I coordinator credential who holds a valid five-year North Dakota educator's professional license or a life license must:
  - a. Renew the credential prior to the expiration of the applicant's educator's professional license, or every five years if the applicant has a life license;
  - b. Submit an online application; and
  - c. Participate in department-sponsored title I trainings as evidenced by a certificate of attendance at four or more title I workshops since the date the current credential was issued.
3. An applicant for renewal of a title I coordinator credential who holds a valid two-year North Dakota educator's professional license must:
  - a. Renew the credential prior to the expiration of the applicant's educator's professional license;
  - b. Submit an online application; and
  - c. Participate in department-sponsored title I trainings as evidenced by a certificate of attendance at two or more title I workshops since the date the current credential was issued.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-02-16(8); 20 USC 6319

**Law Implemented:** NDCC 15.1-02-16(8); 20 USC 6319