



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING


GRETCHEN WHITMER
GOVERNOR

GLENN M. MALEYKO, Ph.D.
STATE SUPERINTENDENT

MEMORANDUM

DATE: December 11, 2025

TO: Local and Intermediate School District Superintendents
Public School Academy Directors

FROM: Dr. Diane Golzynski, RDN, SNS, Deputy Superintendent
Division of Business, Health, and Library Services 

SUBJECT: Section 164k – Compliance with School Meal Programs, Incentives for Pupil Count Days, District Surveys, Evidence-Based Curriculum List

On October 7, 2025, Governor Gretchen Whitmer signed into law the fiscal year 2026 State School Aid Act ([Public Act 15 of 2025](#)). Included in Public Act 15 is Section 164k ([MCL 388.1764k](#)), which requires the Michigan Department of Education (MDE) to confirm if an intermediate school district (ISD) or local school district, including a public school academy (PSA) or traditional public school district, is in violation or noncompliance as it relates to the legislated requirements as stipulated below.

If the department receives a report and confirms that a local school district, PSA, or ISD violated any of the requirements listed below, MDE is required by law to withhold 5% of the Section 22b per pupil payment to local school districts (foundation discretionary per pupil payment), or 5% of the Section 81 payment to ISDs (ISD general operations support) for as long as the district or ISD is out of compliance.

[Section 164k](#) identifies the following as requirements that must be met:

- A district or intermediate district shall ensure that all food made available to a student in the breakfast or lunch program complies with all federal rules and regulations related to school meals.
 - Federal program compliance is monitored through the federal school nutrition program (SNP) and child and adult care food program (CACFP) compliance reviews conducted by your food program analyst. This section does not relate to those compliance reviews. Please work with your [assigned SNP department analyst](#) or your [assigned CACFP department analyst](#) if you have questions.
- To the extent practicable under federal regulations, a district or intermediate district shall require each student household to complete the child nutrition and education benefits application, as provided by the department, for free and reduced-price school meals regardless of whether the district or intermediate district opts to provide universal breakfast or lunch.

STATE BOARD OF EDUCATION

PAMELA PUGH – PRESIDENT • ELLEN COGEN LIPTON / TIFFANY D. TILLEY – CO-VICE PRESIDENTS
JUDITH PRITCHETT – SECRETARY • MARSHALL BULLOCK II – TREASURER
MITCHELL ROBINSON – NASBE DELEGATE • TOM MCMILLIN • NIKKI SNYDER

- This portion of the section relates only to school buildings not participating in the federal community eligibility provision (CEP), as CEP buildings do not use the child nutrition and education benefits application. In addition, federal regulations do not provide the ability to *require* families to complete the child nutrition and education benefits application, only to make those applications *available* to families in non-CEP buildings.
- For pupil membership count days after the fall 2025 count, a district or intermediate district shall not provide a financial incentive to students for attending pupil membership count day.
 - The fall 2025 count day has passed. This portion of section 164k relates to the spring 2026 and fall 2026 count. Financial incentives include, but are not limited to, gift cards or cash.
- A district or intermediate district shall ensure that student survey questions and results are made available to the public, posted on the district's or intermediate district's website, and that parents and legal guardians are notified of the survey. As used in this subsection, "survey" includes any survey from the district or intermediate district or from the local, state, or federal government.
 - Districts will want to pay close attention to public release permissions for each survey and to the Federal Educational Rights and Privacy Act (FERPA) before releasing any survey results. For more information, refer to the obligations for local school districts under FERPA and the [Protection of Pupil Rights Amendment memorandum](#) issued earlier this year.
- Beginning with the fiscal year ending September 30, 2026, if a district is not using a curriculum from the department's evidence-based curriculum list required under section 1280f of the revised school code, [MCL 380.1280f](#), the district must provide a notification to all parents or legal guardians of students in grades K-5 receiving instruction with that curriculum that includes all of the following:
 - A statement informing parents or legal guardians that the curriculum used by the district is not evidence-based or not aligned to state standards, which could negatively impact student academic outcomes.
 - A statement explaining why the district is not using a curriculum that is evidence-based or aligned to state standards.
 - A plan, including a projected timeline, for when a new curriculum will be adopted that is evidence-based and aligned to state standards.
 - Please note: the department's evidence-based curriculum list required under section 1280f of the revised school code ([MCL 380.1280f](#)), will be available to districts in January 2026.

Please know, if a report is made to MDE, staff from the department will contact the local district, PSA, or ISD regarding the reported issue and will work to support the district in achieving compliance.

For general questions regarding Section 164k, please contact MDE-164K-Compliance@michigan.gov.

cc: Michigan Education Alliance
Confederation of Michigan Tribal Education Departments