

**DEPARTMENT OF
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MEMORANDUM

Date: June 21, 2011
To: County Sanitarians
From: Food & Consumer Safety Section, DPHHS
Subject: School Food Service Licensing as a Retail Establishment

This memo is written to provide guidance to schools and local sanitarians assisting with licensing of retail food establishments. Whether or not a school will require licensing as a retail food establishment depends on who the school is serving and how the facility is used. The specific Administrative Rules of Montana (ARM) addressing this issue allows an exemption from licensing if only staff, students and guests are served by the facility. This exemption is outlined in 37.111.842 ARM:

FOOD SERVICE REQUIREMENTS (1) Whenever a food service is operated as an integral part of a school, compliance with ARM Title 37, chapter 110, subchapter 2, rules for food service establishments, is required.

(a) If the food service is available only to staff and students of the school and their guests, licensure as a food service establishment is not required, but compliance with ARM Title 37, chapter 110, subchapter 2, rules for food service establishments, is required.

When is a license required for a school kitchen? The answer is whenever the kitchen is used to prepare or serve food to the general public, with or without charge. [Ref. 50-50-102 (7)(a), MCA] Here is a list of some common examples:

1. Sport event concessions
2. Fundraiser meals
3. Bake sales serving potentially hazardous foods (perishable products such as cream pies)
4. Summer event vendors
5. Summer feeding programs
6. Non-profit organizations (not part of the school)

Can a school obtain a retail food license, even if not required to, as described above? The answer is yes. School food facilities must meet the requirements for food service establishments anyway, so when an inspection verifies compliance and the appropriate fee is paid a license may be issued to the school. Schools may opt to license voluntarily to be ready to utilize the kitchen for future events, or to receive better access to public health information and services.

Cc: Christine Emerson, OPI