§ 227.3 Administration.
(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program.
(b) Within the States, responsibility for administration of the Program shall be in the State agency, except that FNSRO shall administer the Program with respect to nonprofit private schools or institutions in any State where the State agency is prohibited by law from administering the Program in nonprofit private schools or institutions.

§ 227.4 Application and agreement.
After the initial fiscal year of participation each State agency desiring to take part in the Program shall enter into a written agreement with the Department for the administration of the Program in accordance with the provisions of this part. The State agency shall execute Form FNS–74, which shall constitute the written agreement.

§ 227.5 Program funding.
(a) Total grant. The total grant to each State agency for each fiscal year for program costs and administrative costs shall consist of an amount equal to 50 cents per child enrolled in schools and institutions within the State during such year, but in no event shall such grant be less than $50,000: Provided, however, That a State's total grant shall be reduced proportionately if the State does not administer the program in nonprofit private schools and institutions. If funds appropriated for a fiscal year are insufficient to pay the amount to which each State is entitled, the amount of such grant shall be ratably reduced to the extent necessary so that the total of the amounts paid to each State does not exceed the amount of appropriated funds. Each State agency which receives funds based on all children enrolled in public and nonprofit private schools and institutions shall make the Program available as certified by the Department of Education.

(b) First fiscal year participation—(1) Assessment and planning grant. A portion of the total grant shall be made available to each State agency during its first fiscal year of participation as an assessment and planning grant for:
(i) Employing a State Coordinator, as provided for in §227.30, and related support personnel costs including fringe benefits and travel expenses,
(ii) Undertaking a needs assessment in the State,
(iii) Developing a State Plan for nutrition education and training within the State, and
(iv) Applying for the State assessment and planning grant.
(2) Advances for the assessment and planning grant. FNS shall make advances to any State desiring to participate in the Program, to enable the State to carry out the responsibilities set forth in paragraph (b)(1) of this section. Advances shall be made in two phases, in accordance with the following procedures:
(i) Initially, State agencies may receive an advance up to $35,000 for the purpose of hiring a State coordinator, as provided for in §227.30. Application for such an advance shall be made on Form AD–623 when the State agency applies for participation in the Program. The information required for this advance shall be set out in Part III, Budget Information, Section B, Budget Categories. The State agency shall there indicate the funds required for the salary, travel, and fringe benefits of the State Coordinator, and related personnel costs necessary to carry out the duties and responsibilities of the State Coordinator.
(ii) After appointment of the State Coordinator, the State agency may receive an additional advance of up to 50 percent of the total grant to which the State agency is entitled for the first year of participation, after deduction of the advance made for the State Coordinator under §227.5(b)(2), but not to exceed $100,000, for the purpose of undertaking a needs assessment in the State, developing a State Plan for nutrition education and training, and applying for the assessment and planning grant. Application for such advance

(44 U.S.C. 3506)
shall be made by amending Part III, Budget Information, of Form AD–623.

(3) Funds for implementing State plan.
   (i) States receiving advances. Each State agency shall receive the remain-
   ing portion of its total grant in order to implement its State plan, which has
   been approved by FNS, if the State agency has carried out the responsibil-
   ities for which advances were received. With the submission of the State plan
   each State agency may apply for the funds remaining of its total grant.
   (ii) States previously participating. Those States which previously partici-
   pated may apply for their total grant upon submission of the State Plan.
   (c) Administrative costs. Each State
   agency may use up to 15 percent of its
   total grant for up to 50 percent of its
   cash expenditures for administrative
   costs.
   (d) Payment to State agencies. Ap-
   proval of the State plan by FNS is a
   prerequisite to the payment of funds to
   the State agency. All funds made avail-
   able for the Program shall be provided
   through a letter of credit or check, as
determined by FNS.
   (e) Unobligated funds. The State agen-
cy will release to FNS any Federal
funds made available to it under the
Program which are unobligated by Sep-
tember 30 of each fiscal year.
   (f) Funds for existing programs. State
   agencies shall maintain their present
   level of funding for existing nutrition
   education and training programs. FNS
   funds for the Program shall augment
   current nutrition education and train-
ing programs and projects. Funds made
   available by FNS for this Program
   shall not replace such funds.

Subpart B—State Agency
Provisions
§ 227.30 Responsibilities of State agencies.
(a) General. Except to the extent that
   it would be inconsistent with this part,
   the Program shall be administered in
   accordance with the applicable provi-
dions of the Departmental regulations 7
CFR part 3015.
(b) Application. For the initial fiscal
year of participation States shall make
application for administration of the
Program on Form and are responsible
for amending Form AD–623 to request
advance funding. In the initial applica-
tion, in connection with the request for
advance funding for the State Coordi-
nator, part IV, Program Narrative, of
Form AD–623 shall indicate the State
agency’s procedures for hiring a State
Coordinator and contain a justification
for the dollar value of salary requested.
The narrative shall also indicate the
time frame for hiring the State Coordin-
ator. In amending Form AD–623 in
connection with the request for ad-

cance funding for the remaining por-
tion of the assessment and planning
grant, part IV, Program Narrative, shall set forth the details for areas of
the assessment and planning grant,
other than employment of the State
Coordinator.
(b–1) If any State does not apply for
participation in the Program, by April
1 of a fiscal year by submitting Form
AD 623 as required in §§ 227.30(b) and
227.5(b)(2)(i), the State’s share of the
funds shall be provided to the remain-
ning States, so long as this does not
take the remaining States’ grants
above 50 cents per child enrolled in
schools or institutions, except in those
States which receive a minimum grant
of $75,000 for a fiscal year.
(c) State Coordinator. After execution
of the agreement the State agency
shall appoint a nutrition education
specialist to serve as a State Coordi-
nator for the Program who may be em-
ployed on a full-time or part-time
basis. The State Coordinator may be a
State employee who reports directly or
indirectly to the Chief State School Of-

cner or an individual under contract
with the State agency to serve as the
State Coordinator. A State agency
shall not contract with an organization
to provide for the services of a State
Coordinator. The State Coordinator, at
a minimum, shall meet both of the fol-

loowing requirements:
(1) The State Coordinator shall have
a Masters degree or equivalent experi-
ence. Equivalent experience is experi-
ence related to the position being filled
or as defined by State civil service or