

## Food and Nutrition Service, USDA

## § 227.2

Service, Nutrition and Technical Services Division, 3101 Park Center Drive, Alexandria, Virginia 22302.

[49 FR 18457, May 1, 1984; 49 FR 45109, Nov. 15, 1984]

### PART 227—NUTRITION EDUCATION AND TRAINING PROGRAM

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#### APPENDIX TO PART 227—APPORTIONMENT OF FUNDS FOR NUTRITION EDUCATION AND TRAINING

AUTHORITY: Sec. 15, Pub. L. 95-166, 91 Stat. 1340 (42 U.S.C. 1788), unless otherwise noted.

SOURCE: 44 FR 28282, May 15, 1979, unless otherwise noted.

#### Subpart A—General

##### § 227.1 General purpose and scope.

The purpose of these regulations is to implement section 19 of the Child Nutrition Act (added by Pub. L. 95-166, effective November 10, 1977) which authorizes the Secretary to formulate and carry out a nutrition information and education program through a system of grants to State agencies to provide for (a) the nutritional training of educational and foodservice personnel, (b) the foodservice management training of school foodservice personnel, and (c) the conduct of nutrition education

activities in schools and child care institutions. To the maximum extent possible, the Program shall fully utilize the child nutrition programs as a learning experience.

##### § 227.2 Definitions.

(a) *Administrative costs* means costs allowable under Federal Management Circular 74-4, other than program costs, incurred by a State agency for overall administrative and supervisory purposes, including, but not limited to, costs of financial management, data processing, recordkeeping and reporting, personnel management, and supervising the State Coordinator.

(b) *Child Care Food Program* means the program authorized by section 17 of the National School Lunch Act, as amended.

(c) *Child Nutrition Programs* means any or all of the following: National School Lunch Program, School Breakfast Program, Child Care Food Program.

(d) *Commodity only school* means a school which has entered into an agreement under §210.15a(b) of this subchapter to receive commodities donated under part 250 of this chapter for a nonprofit lunch program.

(e) *Department* means the U.S. Department of Agriculture.

(f) *Federal fiscal year* means a period of 12 calendar months beginning October 1 of any calendar year and ending September 30 of the following calendar year.

(g) *FNS* means the Food and Nutrition Service of the Department.

(h) *FNSRO* means the appropriate Regional Office of the Food and Nutrition Service of the Department.

(i) *Institution* means any licensed, nonschool, public or private nonprofit organization providing day care services where children are not maintained in permanent residence, including but not limited to day care centers, settlement houses, after school recreation centers, neighborhood centers, Head Start centers, and organizations providing day care services for handicapped children and includes a sponsoring organization under the Child Care Food Program regulations.

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(j) *National School Lunch Program* means the lunch program authorized by the National School Lunch Act.

(k) *Needs assessment* means a systematic process for delineating the scope, extent (quantity), reach and success of any current nutrition education activities, including those relating to:

(1) Methods and materials available inside and outside the classroom;

(2) Training of teachers in the principles of nutrition and in nutrition education strategies, methods, and techniques;

(3) Training of school foodservice personnel in the principles and practices of foodservice management; and

(4) Compilation of existing data concerning factors impacting on nutrition education and training such as statistics on child health and competency levels achieved by foodservice personnel.

(l) *Program costs* means costs, other than administrative costs, incurred in connection with any or all of the following:

(1) The State Coordinator's salary, and related support personnel costs, including fringe benefits and travel expenses;

(2) Applying for assessment and planning funds;

(3) The conduct of the needs assessment;

(4) The development of the State Plan; and

(5) The implementation of the approved State Plan, including related support services.

(m) *Program* means the Nutrition Education and Training Program authorized by section 19 of the Child Nutrition Act of 1966, as amended.

(n) *School* means:

(1) An educational unit of high school grade or under operating under public or nonprofit private ownership in a single building or complex of buildings. The term "high school grade or under" includes classes of preprimary grade when they are conducted in a school having classes of primary or higher grade, or when they are recognized as a part of the educational system in the State, regardless of whether such preprimary grade classes are conducted in a school having classes of primary or higher grade.

(2) With the exception of residential summer camps which participate in the Summer Food Service Program for Children and private foster homes, any distinct part of a public or nonprofit private institution or any public or nonprofit private child care institution, which (i) maintains children in residence, (ii) operates principally for the care of children and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institution" includes, but is not limited to: Homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long term care facilities of chronically ill children; and juvenile detention centers.

(3) With respect to the Commonwealth of Puerto Rico, non-profit child care centers certified as such by the Governor of Puerto Rico.

(o) *School Breakfast Program* means the program authorized by section 4 of the Child Nutrition Act of 1966, as amended.

(p) *Foodservice personnel* means those individuals responsible for planning, preparing, serving and otherwise operating foodservice programs funded by USDA grants as provided for in the National School Lunch Act and the Child Nutrition Act of 1966.

(q) *State* means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(r) *State agency* means the State educational agency.

(s) *State educational agency* means, as the State legislature may determine:

(1) The Chief State School Officer (such as the State Superintendent of Public Instruction, Commissioner of Education, or similar officer), or (2) a board of education controlling the State Department of Education.

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### § 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.

(Approved by the Office of Management and Budget under control number 0584-0062)

(44 U.S.C. 3506)

[44 FR 28282, May 15, 1979, as amended at 47 FR 746, Jan. 2, 1982]

### § 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 to those schools and institutions. Enrollment figures shall be the latest

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

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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 remaining 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 responsibilities 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 participated 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.* Approval of the State plan by FNS is a prerequisite to the payment of funds to the State agency. All funds made available for the Program shall be provided through a letter of credit or check, as determined by FNS.

(e) *Unobligated funds.* The State agency will release to FNS any Federal funds made available to it under the Program which are unobligated by September 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 training programs and projects. Funds made available by FNS for this Program shall not replace such funds.

[44 FR 28282, May 15, 1979, as amended at 52 FR 8223, Mar. 17, 1987]

### 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 provisions of the Departmental regulations 2 CFR part 200, subpart D, and USDA implementing regulations 2 CFR part 400 and part 415, as applicable.

(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 application, in connection with the request for advance funding for the State Coordinator, 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 Coordinator. In amending Form AD–623 in connection with the request for advance funding for the remaining portion 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 remaining 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 Coordinator for the Program who may be employed 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 Officer 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 following requirements:

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

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personnel policies. If the Masters degree is not in foods and nutrition or dietetics, the Bachelors degree shall include academic preparations in foods and nutrition or dietetics.

(2) In addition, the State Coordinator shall have recognized and demonstrated skills in management and education through at least three years experience in one or more of these areas: Elementary or secondary education, but not limited to classroom teaching; foodservice management and training for adults; community nutrition or public health programs; foodservice operations for children; or community action or assistance programs.

(d) *Needs assessment.* Each State agency shall conduct an ongoing needs assessment in accordance with § 227.36. The needs assessment shall be the data base utilized in formulating the State plan for each fiscal year. For the first year of participation a State agency may apply for funds in order to carry out the needs assessment in accordance with § 227.5.

(e) *Developing and submitting the State plan.* Each State agency shall submit to the Secretary a State plan for Nutrition Education and Training in accordance with § 227.37 prior to the beginning of each fiscal year. The date of submission for the State plan shall be designated by the Secretary. The Secretary shall act on the submitted State plan within 60 days after it is received. For the first year of participation the State agency shall submit to the Secretary, within nine months after the award of the planning and assessment grant, a State plan for nutrition education and training in accordance with § 227.37.

(f) *Records and reports.* (1) Each State agency shall maintain full and complete records concerning Program operations and shall retain such records in accordance with 2 CFR part 200, subpart D and USDA implementing regulations 2 CFR part 400 and part 415.

(2) Each State agency shall submit to FNS a quarterly Financial Status Report, FNS-777, as required 2 CFR part 200, subpart D and USDA implementing regulations 2 CFR part 400 and part 415.

(3) Each State agency shall submit an annual performance report (Form

FNS-42) to FNS within 30 days after the close of the Fiscal Year.

(4) Each State agency shall maintain a financial management system in accordance with 2 CFR part 200, subpart D and USDA implementing regulations 2 CFR part 400 and part 415.

(5) Each State agency shall comply with the requirements of 2 CFR part 200, subpart D and USDA implementing regulations 2 CFR part 400 and part 415, for property management and the procurement of supplies, equipment and other services with these Program funds.

(6) Any income accruing to a State or local agency because of the Program shall be used in accordance with 2 CFR part 200, subpart D and USDA implementing regulations 2 CFR part 400 and part 415.

(g) *Nondiscrimination.* Each State agency shall ensure that Program operations are in compliance with the Department's nondiscrimination regulations (part 15 of this title) issued under title VI of the Civil Rights Act of 1964.

(Approved by the Office of Management and Budget under control number 0584-0062)

(44 U.S.C. 3506; E.O. 12372, July 14, 1982, 47 FR 30959, sec. 401(b) of the Intergovernmental Cooperation Act of 1968 (31 U.S.C. 6506(c))

[44 FR 28282, May 15, 1979, as amended at 45 FR 14842, Mar. 7, 1980; 47 FR 746, Jan. 7, 1982; 47 FR 22072, May 21, 1982; 48 FR 29123, June 24, 1983; 48 FR 39213, Aug. 30, 1983; 81 FR 66493, Sept. 28, 2016]

### § 227.31 Audits, management reviews, and evaluations.

(a) *Audits.* (1) Examinations by the State agencies in the form of audits or internal audits shall be performed in accord with 2 CFR part 200, subpart F and Appendix XI, Compliance Supplement.

(b) *Management reviews.* The State agency is responsible for meeting the following requirements:

(1) The State agency shall establish management evaluation and review procedures to monitor compliance with the State plan for local educational agencies and land grant colleges, other institutions of higher education and public or private nonprofit educational or research agencies, institutions, or organizations.

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(2) The State agency shall require participating agencies to establish program review procedures to be used in reviewing the Agencies operations and those of subsidiaries or contractors.

(c) *Evaluations.* The State agency shall conduct formal evaluations of program activities at least annually. These evaluations shall be aimed at assessing the effectiveness of the various activities undertaken by the State and local agencies. State officials shall analyze why some activities have proved effective while others have not and shall initiate appropriate improvements. The results of the evaluations shall be used to make adjustments in ongoing activities and to plan activities and programs for the next year's State plan. The State agency shall submit a plan for evaluation of Program activities as part of the State plan in accordance with § 227.37(b)(14).

(Approved by the Office of Management and Budget under control number 0584-0062)

(44 U.S.C. 3506; E.O. 12372 (July 14, 1982, 47 FR 30959); sec. 401(b) Intergovernmental Cooperation Act of 1968 (31 U.S.C. 6506(c))

[44 FR 28282, May 15, 1979, as amended at 47 FR 746, Jan. 7, 1982; 48 FR 29123, June 24, 1983; 81 FR 66493, Sept. 28, 2016]

**Subpart C—State Coordinator Provisions**

**§ 227.35 Responsibilities of State coordinator.**

At a minimum, the State Coordinator shall be responsible for:

- (a) Preparation of a budget,
- (b) The conduct of the needs assessment,
- (c) Development of a State plan,
- (d) Implementation of the approved State Plan,
- (e) Evaluation of the progress and implementation of the State Plan,
- (f) Coordination of the Program with the Child Nutrition Programs at the State and local levels,
- (g) Coordination of the Program with other nutrition education and training programs conducted with Federal or State funds,
- (h) Communication of needs and accomplishments of State nutrition education and training programs to parents and the community at large,

(i) Use of Program funds in compliance with all regulations, instructions, or other guidance material provided by FNS,

(j) Coordinating the submission and preparation of the Program financial status report (FNS-777), and

(k) Annual evaluation of the effectiveness of the State Plan.

[44 FR 28282, May 15, 1979, as amended at 81 FR 66493, Sept. 28, 2016; 83 FR 14173, Apr. 3, 2018]

**§ 227.36 Requirements of needs assessment.**

(a) The needs assessment is an ongoing process which identifies the discrepancies between “what should be” and “what is” and shall be applied to each category listed below to enable State agencies to determine their nutrition education and training needs for each year. The needs assessment shall identify the following as a minimum:

(1) Children, teachers, and food service personnel in need of nutrition education and training;

(2) Existing State or federally funded nutrition education and training programs including their:

- (i) Goals and objectives;
- (ii) Source and level of funding;
- (iii) Any available documentation of their relative success or failure; and
- (iv) Factors contributing to their success or failure;

(3) Offices or agencies at the State and local level designated to be responsible for nutrition education and training of teachers and school food service personnel;

(4) Any relevant State nutrition education mandates;

(5) Funding levels at the State and local level for preservice and inservice nutrition education and training of food service personnel and teachers;

(6) State and local individuals, and groups conducting nutrition education and training;

(7) Materials which are currently available for nutrition education and training programs, and determine for each:

- (i) Subject area and content covered;
- (ii) Grade level;
- (iii) How utilized;
- (iv) Acceptability by user;

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- (v) Currency of materials;
  - (8) Any major child nutrition related health problems in each State;
  - (9) Existing sources of primary and secondary data, including any data that has been collected for documenting the State's nutrition education and training needs;
  - (10) Available documentation of the competencies of teachers in the area of nutrition education;
  - (11) Available documentation of the competencies of food service personnel;
  - (12) Problems encountered by schools and institutions in procuring nutritious food economically and in preparing nutritious appetizing meals and areas where training can assist in alleviating these problems;
  - (13) Problems teachers encounter in conducting effective nutrition education activities and areas where inservice training or materials can assist in alleviating these problems;
  - (14) Problems in dietary habits of children and areas where nutrition education may assist in positive changes;
  - (15) Problems encountered in coordinating the nutrition education by teachers with the meal preparation and activities of the food service facility and areas where training might alleviate these problems.
- (b) The needs assessment should be an ongoing process and provide not only data on current activities but also a description of the problems and needs in each category and whether training or materials would help alleviate the identified problems.

### § 227.37 State plan for nutrition education and training.

(a) *General.* Each fiscal year the State agency shall submit a State plan for Nutrition Education and Training for approval to FNS. The State plan shall be based on the needs identified from the ongoing needs assessment and evaluation of the State plans from previous years. The State plan shall be submitted in accordance with § 227.30(e). Guidance for the preparation and submission of the State plan shall be provided by FNS.

(b) *Requirements for the State plan.* The State plan shall provide the following:

- (1) Description of the ongoing needs assessment conducted within the State;
- (2) The findings of the needs assessment within the State used to determine the goals and objectives of the State plan and results of the evaluation of the previous years' State plans for:
  - (i) Inservice training of food service personnel,
  - (ii) Nutrition education of children,
  - (iii) Inservice training in nutrition education for teachers;
- (3) Goals and objectives of the State plan;
- (4) Identification of the priority populations to be reached during the fiscal year;
- (5) Provisions for coordinating the nutrition education and training programs carried out with funds made available under this part with any related publicly supported programs being carried out within the State to include:
  - (i) Identification of existing programs that may be utilized,
  - (ii) Description of how representatives of such groups are to be involved in the planning and implementation of the State program;
  - (iii) Criteria and procedure for selection of such representatives;
- (6) Plans to solicit advice and recommendations of the National Advisory Council on Child Nutrition, State educational or other appropriate agencies; the U.S. Department of Education; the U.S. Department of Health and Human Services; and other interested groups and individuals concerned with improvement of child nutrition.
- (7) Plans, including a timetable, for reaching all children in the State with instruction in the nutritional value of foods and the relationship among food, nutrition and health, for inservice training of food service personnel in the principles and skills of food service management and nutrition and for inservice instruction for teachers in sound principles of nutrition education;
- (8) Any plans for using, on a priority basis, the resources of the land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 through 305, 307, and 308) or

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the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 312 through 326 and 328), including the Tuskegee Institute;

(9) A brief description of the program or activities to be contracted with land-grant colleges, described above, and other institutions of higher education, and other public or private non-profit educational or research agencies, institutions or organizations for carrying out nutrition education and training activities;

(10) A brief description of pilot projects, including objectives, subject matter and expected outcomes, to be contracted with the land-grant colleges described above, other institutions of higher education, public and nonprofit educational or research agencies, institutions, or organizations for but not limited to projects for development, demonstration, testing and evaluation of curricula for use in early childhood, elementary, and secondary education programs;

(11) Identification of schools, school districts, and sponsoring agencies which may agree to participate in the nutrition education and training program;

(12) A brief description of (i) State agency sponsored pilot projects including objectives, subject matter and anticipated outcomes and (ii) nutrition education and training programs to be conducted by schools, school districts, and sponsoring agencies receiving funds under this provision including objectives, subject matter and expected outcomes;

(13) Time frame and milestones for implementation of State plans;

(14) Plans to evaluate program activities including an evaluation component for each objective of the State plan;

(15) Description of staff available to perform State agency responsibilities of the State nutrition education and training program which includes:

(i) Definition of duties and responsibilities,

(ii) Minimum professional qualifications,

(iii) Number and classification of personnel;

(16) A description of the procedures used to comply with the requirements of Title VI of the Civil Rights Act of

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1964, including racial and ethnic participation data collection, public notification procedures and the annual civil rights compliance review process;

(17) Plans for the conduct of audits in accordance with § 227.31;

(18) A budget detailing the use of program funds;

(19) Description of the financial management system in accordance with § 227.30(e);

(20) Description of the management evaluation and review procedures established in accordance with § 227.31(b); and

(21) Other components that the States determine necessary.

(c) States eligible to receive additional funds pursuant to § 227.30(b-1) shall submit an amendment to the State plan to the Food and Nutrition Service Regional Office for prior approval.

[44 FR 28282, May 15, 1979, as amended at 45 FR 14842, Mar. 7, 1980; 48 FR 39213, Aug. 30, 1983]

### Subpart D—Miscellaneous

#### § 227.40 Program information.

Persons desiring information concerning the program may write to the appropriate State agency or Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, Mass. 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, One Vahlsing Center, Robbinsville, N.J. 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street NW., Atlanta, Ga. 30309.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Midwest Regional Office, FNS,

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U.S. Department of Agriculture, 536 South Clark Street, Chicago, Ill. 60605.

(e) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430D, Denver, Colo. 80211.

(f) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5-C-30, Dallas, Tex. 75242.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, Calif. 94108.

**§ 227.41 Recovery of funds.**

(a) FNS may recover funds from a State agency under any of the following conditions:

(1) If FNS determines, through a review of the State agency's reports, program, or financial analysis, monitoring, audit or otherwise, that the State agency's performance is inadequate or that the State agency has failed to comply with this part or FNS instructions and guidelines.

(2) If FNS determines that the State agency is not expending funds at a rate commensurate with the amount of funds distributed or provided for expenditure under the program.

(3) If FNS determines that a State agency is not providing full and timely reports.

(b) FNS shall effect such recoveries of funds through adjustments in the amount of funds provided under the program.

**§ 227.42 Grant closeout procedures.**

The requirements of 2 CFR part 200, subpart D, and USDA implementing regulations 2 CFR part 400 and part 415, are applicable in the termination of any grant under this part.

[44 FR 28282, May 15, 1979, as amended at 81 FR 66493, Sept. 28, 2016]

**§ 227.43 Participation of adults.**

Nothing in this part shall prohibit a State or local educational agency from making available or distributing to adults education materials, resources, activities or programs authorized by this part.

**§ 227.44 Management evaluations and reviews.**

FNS shall establish evaluation procedures to determine whether State agencies carry out the purpose and provisions of this part, the State agency plan and FNS guidelines and instructions. To the maximum extent possible the State's performance shall be reviewed and evaluated by FNS on a regular basis including the use of public hearings.

**APPENDIX TO PART 227—APPORTIONMENT OF FUNDS FOR NUTRITION EDUCATION AND TRAINING**

Pursuant to sections 19(j) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1788), funds available for the fiscal year ending September 30, 1980, are apportioned among the States as follows:

[See footnotes at the end of Table.]

State	Public schools <sup>1</sup>	Private schools <sup>2</sup>	Residential child care institutions <sup>3</sup>	Nonresidential child care institutions <sup>4</sup>	Total <sup>5</sup>
Connecticut .....	231,069	38,488	1,260	2,866	273,683
Maine .....	93,406	6,538	387	808	101,139
Massachusetts .....	420,866	68,337	2,697	5,352	497,252
New Hampshire .....	67,087	7,978	331	1,160	76,556
Rhode Island .....	62,521	12,570	304	767	76,162
Vermont .....	39,419	3,814	247	579	75,000
Delaware .....	914,368	137,725	5,226	11,532	1,099,792
District of Columbia .....	43,210	7,277	107	1,339	75,000
District of Columbia .....	44,309	7,511	447	2,458	75,000
Maryland .....	315,196	51,992	1,292	5,234	373,714
New Jersey .....	520,438	117,060	3,930	8,588	650,016

State	Public schools <sup>1</sup>	Private schools <sup>2</sup>	Residential child care institutions <sup>3</sup>	Nonresidential child care institutions <sup>4</sup>	Total <sup>5</sup>
New York .....	1,204,026	274,593	14,068	19,756	1,512,443
Pennsylvania .....	796,518	182,089	9,026	7,312	994,945
Puerto Rico .....	280,750	36,776	0	0	317,526
Virginia .....	410,660	34,947	6,239	6,068	457,914
Virgin Islands .....	9,783	2,452	11	0	75,000
West Virginia .....	154,000	4,942	770	854	160,566
Alabama .....	3,778,890	719,639	35,890	51,609	4,692,124
Florida .....	296,412	21,949	892	10,607	329,860
Georgia <sup>5</sup> .....	589,122	57,440	2,116	19,074	667,752
Kentucky .....	424,042	27,708	2,783	14,806	469,339
Kentucky .....	269,690	27,786	3,685	3,652	304,813
Mississippi .....	192,134	25,802	541	12,175	230,652
North Carolina .....	452,523	22,104	3,052	19,722	497,401
South Carolina <sup>5</sup> .....	243,200	19,225	1,255	6,559	270,239
Tennessee .....	339,753	17,396	1,448	7,847	366,444
Illinois .....	2,806,876	219,410	15,772	94,442	3,136,500
Illinois .....	793,671	160,491	5,343	15,971	975,476
Indiana .....	433,267	39,967	2,814	5,279	481,327
Michigan .....	747,374	85,655	3,069	7,817	843,915
Minnesota .....	314,333	38,994	1,245	3,135	357,707
Ohio .....	818,192	110,561	5,836	10,767	945,356
Wisconsin .....	344,962	73,707	1,922	3,579	424,170
Arkansas .....	3,451,799	509,375	20,229	46,548	4,027,951
Arkansas .....	177,730	8,095	385	4,453	190,663
Louisiana .....	317,817	64,562	1,551	6,307	390,237
New Mexico .....	108,673	5,448	235	2,619	116,975
Oklahoma .....	229,166	3,969	1,916	8,639	243,690
Texas .....	1,115,829	52,654	4,163	38,934	1,211,580
Texas .....	1,949,215	134,728	8,250	60,952	2,153,145
Colorado <sup>5</sup> .....	217,264	15,800	937	4,399	238,400
Iowa .....	221,255	25,957	3,204	2,631	253,047
Kansas .....	168,720	12,765	330	1,062	182,877
Missouri .....	350,248	54,950	1,271	6,629	413,098
Montana .....	63,950	3,425	75	677	75,000
Nebraska .....	115,891	17,629	376	1,694	135,590
North Dakota <sup>5</sup> .....	47,486	4,826	309	383	75,000
South Dakota .....	53,792	5,760	267	390	75,000
Utah .....	126,488	1,518	541	1,325	129,872
Wyoming .....	36,709	1,206	74	497	75,000
Alaska .....	1,401,803	143,836	7,384	19,687	1,652,884
Alaska .....	35,308	739	310	392	75,000
Samoa .....	3,616	778	0	0	75,000
Arizona .....	198,407	21,871	661	4,712	225,651
California .....	1,629,801	170,376	28,777	44,277	1,873,231
Guam .....	11,118	1,985	0	0	75,000
Hawaii .....	66,454	13,348	1,854	3,352	85,008
Idaho .....	79,009	1,868	119	860	81,856
Nevada .....	56,927	2,179	473	1,643	75,000
Oregon .....	183,441	9,379	859	3,703	197,382
Trust Territory .....	11,590	0	0	0	75,000
Washington .....	299,362	17,318	2,140	5,656	324,476
N Marianas .....	1,945	0	0	0	75,000
N Marianas .....	2,576,978	239,841	35,193	64,595	3,237,604
N Marianas .....	16,879,929	2,104,554	127,944	349,365	20,000,000

<sup>1</sup> Sources: (1) U.S. Department of Health, Education, and Welfare, Education Division, NCES, *Statistics of Public Schools, Fall 1977*, prepublication data, Table 5 for States and areas, except (2) Northern Marianas and Trust Territory, 1975-76 data from Department of Interior, adjust to include pre-school; Puerto Rico and Guam, Fall 1976 data.

<sup>2</sup> U.S. Department of Health, Education, and Welfare, Education Division, (NCES), *Digest of Education Statistics, 1976*, Table 46, p. 47, Northern Marianas and Trust Territory 1975-76 data from Department of Interior, adjust to include pre-school.

<sup>3</sup> U.S. Department of Agriculture, Food and Nutrition Service, *Annual Report of Meal Service in Schools (Form FNS-47)*, October 1976.

<sup>4</sup> U.S. Department of Health, Education, and Welfare, *Day Care Centers In the U.S.; A National Profile 1976-77*, Volume 3 of the Final Report of the National Day Care Study, Table 63.

<sup>5</sup> A portion of these funds will be withheld from the States' allocations for use by FNS in administering the Program in nonprofit private schools or institutions.

## Food and Nutrition Service, USDA

## § 235.2

[44 FR 70451, Dec. 7, 1979]

### PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

- Sec.
- 235.1 General purpose and scope.
  - 235.2 Definitions.
  - 235.3 Administration.
  - 235.4 Allocation of funds to States.
  - 235.5 Payments to States.
  - 235.6 Use of funds.
  - 235.7 Records and reports.
  - 235.8 Management evaluations and audits.
  - 235.9 Procurement and property management standards.
  - 235.10 [Reserved]
  - 235.11 Other provisions.
  - 235.12 Information collection/record-keeping—OMB assigned control numbers.

AUTHORITY: Secs. 7 and 10 of the Child Nutrition Act of 1966, 80 Stat. 888, 889, as amended (42 U.S.C. 1776, 1779).

SOURCE: 41 FR 32405, Aug. 3, 1976, unless otherwise noted.

#### § 235.1 General purpose and scope.

This part announces the policies and prescribes the regulations necessary to carry out the provisions of section 7 of the Child Nutrition Act of 1966, as amended. It prescribes the methods for making payments of funds to State agencies for use for administrative expenses incurred in supervising and giving technical assistance in connection with activities undertaken by them under the National School Lunch Program (7 CFR part 210), the Special Milk Program (7 CFR part 215), the School Breakfast Program (7 CFR part 220), the Child and Adult Care Food Program (7 CFR part 226) and the Food Distribution Program (7 CFR part 250).

(Sec. 7, Pub. L. 95-627, 92 Stat. 3621 (42 U.S.C. 1776))

[44 FR 51185, Aug. 31, 1979, as amended by Amdt. 17, 55 FR 1378, Jan. 16, 1990; 60 FR 15461, Mar. 24, 1995]

#### § 235.2 Definitions.

For the purpose of this part, the term:

2 *CFR part 200*, means the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards published by OMB. The part reference covers applicable: Acronyms and Definitions (subpart A), General Provisions (subpart B), Post Fed-

eral Award Requirements (subpart D), Cost Principles (subpart E), and Audit Requirements (subpart F). (NOTE: Pre-Federal Award Requirements and Contents of Federal Awards (subpart C) does not apply to the National School Lunch Program).

*Act* means the Child Nutrition Act of 1966, as amended.

*CND* means the Child Nutrition Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

*Department* means the U.S. Department of Agriculture.

*Distributing agency* means a State agency which enters into an agreement with the Department for the distribution of donated foods pursuant to part 250 of this title.

*FNS* means the Food and Nutrition Service of the U.S. Department of Agriculture.

*FNSRO* means the appropriate Food and Nutrition Service Regional Office of the Food and Nutrition Service of the U.S. Department of Agriculture.

*Fiscal year* means a period of 12 calendar months beginning October 1, 1976, and October 1 of each calendar year thereafter and ending with September 30 of the following calendar year.

*Institution* means a child or adult care center or a sponsoring organization as defined in part 226 of this chapter.

*Large school food authority* means, in any State:

(1) All school food authorities that participate in the National School Lunch Program (7 CFR part 210) and have enrollments of 40,000 children or more each; or

(2) If there are less than two school food authorities with enrollments of 40,000 or more, the two largest school food authorities that participate in the National School Lunch Program (7 CFR part 210) and have enrollments of 2,000 children or more each.

*Nonprofit* means exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1986.

*OIG* means the Office of the Inspector General of the Department.

*SAE* means federally provided State administrative expense funds for State agencies under this part.