

vided under section 1788 of this title" before semicolon at end.

Subsec. (e)(1). Pub. L. 108-265, §125(c)(1), substituted "2009" for "2003".

Subsec. (e)(2)(A). Pub. L. 108-447 inserted "and" after "2005".

Pub. L. 108-265, §125(c)(2), substituted "provide to the Secretary" for "provide to the Secretary \$147,000 for fiscal year 1995, \$2,000,000 for each of fiscal years 1996 through 1998, and" and "2004 and \$4,000,000 for fiscal year 2005" for "1999 and".

Subsecs. (f), (g). Pub. L. 108-265, §126(a), added subsecs. (f) and (g).

1998—Subsec. (c)(2)(F), (H). Pub. L. 105-336, §110(a), substituted "established by the Secretary" for "of section 1769e of this title".

Subsec. (e)(1). Pub. L. 105-336, §110(b), substituted "2003" for "1998".

Subsec. (e)(2)(A). Pub. L. 105-336, §110(c), substituted "\$2,000,000 for each of fiscal years 1996 through 1998, and \$3,000,000 for fiscal year 1999 and each subsequent fiscal year," for "and \$2,000,000 for fiscal year 1996 and each subsequent fiscal year," in first sentence.

Pub. L. 105-336, §103(c)(2), inserted "without further appropriation" before period at end of second sentence.

1994—Subsec. (a)(1). Pub. L. 103-448, §120(c)(1), substituted "subject to the availability of, and from, amounts" for "from amounts" in introductory provisions.

Subsec. (c)(2)(B)(ix), (x). Pub. L. 103-448, §120(a)(1), added cl. (ix) and redesignated former cl. (ix) as (x).

Subsec. (c)(2)(F) to (H). Pub. L. 103-448, §120(a)(2)-(4), added subpars. (F) to (H).

Subsec. (d). Pub. L. 103-448, §120(b), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (e). Pub. L. 103-448, §120(c)(2), added subsec. (e) and struck out former subsec. (e) which read as follows: "There are authorized to be appropriated—

"(1) \$3,000,000 for the fiscal year 1990, \$2,000,000 for the fiscal year 1991, and \$1,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of carrying out subsection (a)(1) of this section; and

"(2) \$1,000,000 for the fiscal year 1990 and \$4,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994 for purposes of carrying out subsection (a)(2) of this section."

1992—Subsec. (a)(2). Pub. L. 102-337 inserted "to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi," after "is authorized".

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111-296, set out as a note under section 1751 of this title.

##### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-336 effective Oct. 1, 1998, see section 401 of Pub. L. 105-336, set out as a note under section 1755 of this title.

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-448 effective Oct. 1, 1994, see section 401 of Pub. L. 103-448, set out as a note under section 1755 of this title.

#### § 1769c. Compliance and accountability

##### (a) Unified accountability system

###### (1) <sup>1</sup> In general

There shall be a unified system prescribed and administered by the Secretary to ensure

that local food service authorities participating in the school lunch program established under this chapter and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) comply with those Acts, including compliance with—

(A) the nutritional requirements of section 1758(f) of this title for school lunches; and

(B) as applicable, the nutritional requirements for school breakfasts under section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)).

##### (b) Functions of system

###### (1) In general

Under the system described in subsection (a), each State educational agency shall—

(A) require that local food service authorities comply with the nutritional requirements described in subparagraphs (A) and (B) of paragraph (1);<sup>2</sup>

(B) to the maximum extent practicable, ensure compliance through reasonable audits and supervisory assistance reviews;

(C) in conducting audits and reviews for the purpose of determining compliance with this chapter, including the nutritional requirements of section 1758(f) of this title—

(i) conduct audits and reviews during a 3-year cycle or other period prescribed by the Secretary;

(ii) select schools for review in each local educational agency using criteria established by the Secretary;

(iii) report the final results of the reviews to the public in the State in an accessible, easily understood manner in accordance with guidelines promulgated by the Secretary; and

(iv) submit to the Secretary each year a report containing the results of the reviews in accordance with procedures developed by the Secretary; and

(D) when any local food service authority is reviewed under this section, ensure that the final results of the review by the State educational agency are posted and otherwise made available to the public on request in an accessible, easily understood manner in accordance with guidelines promulgated by the Secretary.

###### (2) Minimization of additional duties

Each State educational agency shall coordinate the compliance and accountability activities described in paragraph (1) in a manner that minimizes the imposition of additional duties on local food service authorities.

###### (3) Additional review requirement for selected local educational agencies

###### (A) Definition of selected local educational agencies

In this paragraph, the term "selected local educational agency" means a local educational agency that has a demonstrated high level of, or a high risk for, administrative error, as determined by the Secretary.

<sup>1</sup> So in original. No par. (2) has been enacted.

<sup>2</sup> So in original. Probably means subpars. (A) and (B) of par. (1) of subsec. (a).

**(B) Additional administrative review**

In addition to any review required by subsection (a) or paragraph (1), each State educational agency shall conduct an administrative review of each selected local educational agency during the review cycle established under subsection (a).

**(C) Scope of review**

In carrying out a review under subparagraph (B), a State educational agency shall only review the administrative processes of a selected local educational agency, including application, certification, verification, meal counting, and meal claiming procedures.

**(D) Results of review**

If the State educational agency determines (on the basis of a review conducted under subparagraph (B)) that a selected local educational agency fails to meet performance criteria established by the Secretary, the State educational agency shall—

(i) require the selected local educational agency to develop and carry out an approved plan of corrective action;

(ii) except to the extent technical assistance is provided directly by the Secretary, provide technical assistance to assist the selected local educational agency in carrying out the corrective action plan; and

(iii) conduct a followup review of the selected local educational agency under standards established by the Secretary.

**(4) Retaining funds after administrative reviews****(A) In general**

Subject to subparagraphs (B) and (C), if the local educational agency fails to meet administrative performance criteria established by the Secretary in both an initial review and a followup review under paragraph (1) or (3) or subsection (a), the Secretary may require the State educational agency to retain funds that would otherwise be paid to the local educational agency for school meals programs under procedures prescribed by the Secretary.

**(B) Amount**

The amount of funds retained under subparagraph (A) shall equal the value of any overpayment made to the local educational agency or school food authority as a result of an erroneous claim during the time period described in subparagraph (C).

**(C) Time period**

The period for determining the value of any overpayment under subparagraph (B) shall be the period—

(i) beginning on the date the erroneous claim was made; and

(ii) ending on the earlier of the date the erroneous claim is corrected or—

(I) in the case of the first followup review conducted by the State educational agency of the local educational agency under this section after July 1, 2005, the date that is 60 days after the beginning of the period under clause (i); or

(II) in the case of any subsequent followup review conducted by the State educational agency of the local educational agency under this section, the date that is 90 days after the beginning of the period under clause (i).

**(5) Use of retained funds****(A) In general**

Subject to subparagraph (B), funds retained under paragraph (4) shall—

(i) be returned to the Secretary, and may be used—

(I) to provide training and technical assistance related to administrative practices designed to improve program integrity and administrative accuracy in school meals programs to State educational agencies and, to the extent determined by the Secretary, to local educational agencies and school food authorities;

(II) to assist State educational agencies in reviewing the administrative practices of local educational agencies in carrying out school meals programs; and

(III) to carry out section 1769b-1(f) of this title; or

(ii) be credited to the child nutrition programs appropriation account.

**(B) State share**

A State educational agency may retain not more than 25 percent of an amount recovered under paragraph (4), to carry out school meals program integrity initiatives to assist local educational agencies and school food authorities that have repeatedly failed, as determined by the Secretary, to meet administrative performance criteria.

**(C) Requirement**

To be eligible to retain funds under subparagraph (B), a State educational agency shall—

(i) submit to the Secretary a plan describing how the State educational agency will use the funds to improve school meals program integrity, including measures to give priority to local educational agencies from which funds were retained under paragraph (4);

(ii) consider using individuals who administer exemplary local food service programs in the provision of training and technical assistance; and

(iii) obtain the approval of the Secretary for the plan.

**(6) Eligibility determination review for selected local educational agencies****(A) In general**

A local educational agency that has demonstrated a high level of, or a high risk for, administrative error associated with certification, verification, and other administrative processes, as determined by the Secretary, shall ensure that the initial eligibility determination for each application is reviewed for accuracy prior to notifying a household of the eligibility or ineligibility

of the household for free or reduced price meals.

**(B) Timeliness**

The review of initial eligibility determinations—

- (i) shall be completed in a timely manner; and
- (ii) shall not result in the delay of an eligibility determination for more than 10 operating days after the date on which the application is submitted.

**(C) Acceptable types of review**

Subject to standards established by the Secretary, the system used to review eligibility determinations for accuracy shall be conducted by an individual or entity that did not make the initial eligibility determination.

**(D) Notification of household**

Once the review of an eligibility determination has been completed under this paragraph, the household shall be notified immediately of the determination of eligibility or ineligibility for free or reduced price meals.

**(E) Reporting**

**(i) Local educational agencies**

In accordance with procedures established by the Secretary, each local educational agency required to review initial eligibility determinations shall submit to the relevant State agency a report describing the results of the reviews, including—

- (I) the number and percentage of reviewed applications for which the eligibility determination was changed and the type of change made; and
- (II) such other information as the Secretary determines to be necessary.

**(ii) State agencies**

In accordance with procedures established by the Secretary, each State agency shall submit to the Secretary a report describing the results of the reviews of initial eligibility determinations, including—

- (I) the number and percentage of reviewed applications for which the eligibility determination was changed and the type of change made; and
- (II) such other information as the Secretary determines to be necessary.

**(iii) Transparency**

The Secretary shall publish annually the results of the reviews of initial eligibility determinations by State, number, percentage, and type of error.

**(c) Role of Secretary**

In carrying out this section, the Secretary shall—

- (1) assist the State educational agency in the monitoring of programs conducted by local food service authorities; and

- (2) through management evaluations, review the compliance of the State educational agency and the local school food service authorities with regulations issued under this chapter.

**(d) Authorization of appropriations**

There is authorized to be appropriated for purposes of carrying out the compliance and accountability activities referred to in subsection (c) \$10,000,000 for each of fiscal years 2011 through 2015.

**(e) Fines for violating program requirements**

**(1) School food authorities and schools**

**(A) In general**

The Secretary shall establish criteria by which the Secretary or a State agency may impose a fine against any school food authority or school administering a program authorized under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) if the Secretary or the State agency determines that the school food authority or school has—

- (i) failed to correct severe mismanagement of the program;
- (ii) disregarded a program requirement of which the school food authority or school had been informed; or
- (iii) failed to correct repeated violations of program requirements.

**(B) Limits**

**(i) In general**

In calculating the fine for a school food authority or school, the Secretary shall base the amount of the fine on the reimbursement earned by school food authority or school for the program in which the violation occurred.

**(ii) Amount**

The amount under clause (i) shall not exceed—

- (I) 1 percent of the amount of meal reimbursements earned for the fiscal year for the first finding of 1 or more program violations under subparagraph (A);

- (II) 5 percent of the amount of meal reimbursements earned for the fiscal year for the second finding of 1 or more program violations under subparagraph (A); and

- (III) 10 percent of the amount of meal reimbursements earned for the fiscal year for the third or subsequent finding of 1 or more program violations under subparagraph (A).

**(2) State agencies**

**(A) In general**

The Secretary shall establish criteria by which the Secretary may impose a fine against any State agency administering a program authorized under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) if the Secretary determines that the State agency has—

- (i) failed to correct severe mismanagement of the program;
- (ii) disregarded a program requirement of which the State had been informed; or
- (iii) failed to correct repeated violations of program requirements.

**(B) Limits**

In the case of a State agency, the amount of a fine under subparagraph (A) shall not exceed—

(i) 1 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the first finding of 1 or more program violations under subparagraph (A);

(ii) 5 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the second finding of 1 or more program violations under subparagraph (A); and

(iii) 10 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the third or subsequent finding of 1 or more program violations under subparagraph (A).

### (3) Source of funding

Funds to pay a fine imposed under paragraph (1) or (2) shall be derived from non-Federal sources.

(June 4, 1946, ch. 281, §22, as added Pub. L. 101-147, title I, §110(a), Nov. 10, 1989, 103 Stat. 889; amended Pub. L. 103-448, title I, §121, Nov. 2, 1994, 108 Stat. 4727; Pub. L. 105-336, title I, §111, Oct. 31, 1998, 112 Stat. 3157; Pub. L. 108-265, title I, §§126(b)(1), 127, June 30, 2004, 118 Stat. 763, 767; Pub. L. 111-296, title II, §207, title III, §§303, 304, title IV, §408, Dec. 13, 2010, 124 Stat. 3220, 3240, 3242, 3260.)

#### Editorial Notes

#### REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1) and (e)(1)(A), (2)(A), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

Those Acts, referred to in subsec. (a)(1), mean the Richard B. Russell National School Lunch Act, which was in the original “this Act” and was translated to read “this chapter”, and the Child Nutrition Act of 1966. See above.

#### PRIOR PROVISIONS

A prior section 1769c, act June 4, 1946, ch. 281, §22, as added Nov. 10, 1978, Pub. L. 95-627, §9, 92 Stat. 3623, directed a study of menu choice, prior to repeal by Pub. L. 99-500, title III, §371(b), Oct. 18, 1986, 100 Stat. 1783-368, and Pub. L. 99-591, title III, §371(b), Oct. 30, 1986, 100 Stat. 3341-372; Pub. L. 99-661, div. D, title V, §4501(b), Nov. 14, 1986, 100 Stat. 4080.

#### AMENDMENTS

2010—Subsec. (a). Pub. L. 111-296, §207(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “There shall be a unified system prescribed and administered by the Secretary for ensuring that local food service authorities that participate in the school lunch program under this chapter comply with the provisions of this chapter. Such system shall be established through the publication of regulations and the provision of an opportunity for public comment, consistent with the provisions of section 553 of title 5.”

Subsec. (b)(1). Pub. L. 111-296, §207(2), added subpars. (A) to (D) and struck out former subpars. (A) and (B) which read as follows:

“(A) require that local food service authorities comply with the provisions of this chapter; and

“(B) ensure such compliance through reasonable audits and supervisory assistance reviews.”

Subsec. (b)(6). Pub. L. 111-296, §304, added par. (6).

Subsec. (d). Pub. L. 111-296, §408, substituted “\$10,000,000 for each of fiscal years 2011 through 2015” for “\$6,000,000 for each of fiscal years 2004 through 2009”.

Subsec. (e). Pub. L. 111-296, §303, added subsec. (e).

2004—Subsec. (b)(3) to (5). Pub. L. 108-265, §126(b)(1), added pars. (3) to (5).

Subsec. (d). Pub. L. 108-265, §127, substituted “\$6,000,000 for each of fiscal years 2004 through 2009” for “\$3,000,000 for each of the fiscal years 1994 through 2003”.

1998—Subsec. (d). Pub. L. 105-336 substituted “2003” for “1996”.

1994—Subsec. (d). Pub. L. 103-448 substituted “fiscal years 1994 through 1996” for “fiscal years 1990, 1991, 1992, 1993, and 1994”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111-296, set out as a note under section 1751 of this title.

##### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 126(b)(1) of Pub. L. 108-265 effective July 1, 2005, and amendment by section 127 of Pub. L. 108-265 effective June 30, 2004, see section 502(a), (b)(4) of Pub. L. 108-265, as amended, set out as an Effective Date note under section 1754 of this title.

##### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-336 effective Oct. 1, 1998, see section 401 of Pub. L. 105-336, set out as a note under section 1755 of this title.

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-448 effective Oct. 1, 1994, see section 401 of Pub. L. 103-448, set out as a note under section 1755 of this title.

#### REGULATIONS

Pub. L. 101-147, title I, §110(b), Nov. 10, 1989, 103 Stat. 889, provided that: “Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 22 of the [Richard B. Russell] National School Lunch Act [this section] (as added by subsection (a) of this section.”

#### INTERPRETATION

Pub. L. 108-265, title I, §126(b)(2), June 30, 2004, 118 Stat. 765, provided that: “Nothing in the amendment made by paragraph (1) [amending this section] affects the requirements for fiscal actions as described in the regulations issued pursuant to section 22(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(a)).”

### § 1769d. Childhood hunger research

#### (a) Research on causes and consequences of childhood hunger

##### (1) In general

The Secretary shall conduct research on—

(A) the causes of childhood hunger and food insecurity;

(B) the characteristics of households with childhood hunger and food insecurity; and

(C) the consequences of childhood hunger and food insecurity.