

their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill children; and juvenile detention centers. A long-term care facility is a hospital, skilled nursing facility, intermediate care facility, or distinct part thereof, which is intended for the care of children confined for 30 days or more.

School food authority means the governing body which is responsible for the administration of one or more schools; and has the legal authority to operate the Program therein or be otherwise approved by FNS to operate the Program.

School week means the period of time used to determine compliance with the meal requirements in §210.10. The period shall be a normal school week of five consecutive days; however, to accommodate shortened weeks resulting from holidays and other scheduling needs, the period shall be a minimum of three consecutive days and a maximum of seven consecutive days. Weeks in which school lunches are offered less than three times shall be combined with either the previous or the coming week.

School year means a period of 12 calendar months beginning July 1 of any year and ending June 30 of the following year.

Secretary means the Secretary of Agriculture.

State means any of the 50 States, District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and, as applicable, American Samoa and the Commonwealth of the Northern Marianas.

State agency means (a) the State educational agency; (b) any other agency of the State which has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the Program in schools, as specified in §210.3(b); or (c) the FNSRO, where the FNSRO administers the Program as specified in §210.3(c).

State educational agency means, as the State legislature may determine, (a) the chief State school officer (such as the State Superintendent of Public In-

struction, Commissioner of Education, or similar officer), or (b) a board of education controlling the State department of education.

Student with disabilities means any child who has a physical or mental impairment as defined in §15b.3 of the Department's nondiscrimination regulations (7 CFR part 15b).

Tofu means a soybean-derived food, made by a process in which soybeans are soaked, ground, mixed with water, heated, filtered, coagulated, and formed into cakes. Basic ingredients are whole soybeans, one or more food-grade coagulants (typically a salt or an acid), and water. Tofu products must conform to FNS guidance to count toward the meats/meat alternates component.

Whole grains means grains that consist of the intact, ground, cracked, or flaked grain seed whose principal anatomical components—the starchy endosperm, germ and bran—are present in the same relative proportions as they exist in the intact grain seed. Whole grain-rich products must conform to FNS guidance to count toward the grains component.

Yogurt means commercially prepared coagulated milk products obtained by the fermentation of specific bacteria, that meet milk fat or milk solid requirements and to which flavoring foods or ingredients may be added. These products are covered by the Food and Drug Administration's Definition and Standard of Identity for yogurt, lowfat yogurt, and nonfat yogurt, 21 CFR 131.200, 21 CFR 131.203, and 21 CFR 131.206, respectively.

[53 FR 29147, Aug. 2, 1988]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §210.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§210.3 Administration.

(a) *FNS*. FNS will act on behalf of the Department in the administration of the Program. Within FNS, the CND will be responsible for Program administration.

(b) *States*. Within the States, the responsibility for the administration of the Program in schools, as defined in §210.2, shall be in the State educational

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agency. If the State educational agency is unable to administer the Program in public or private nonprofit residential child care institutions or nonprofit private schools, then Program administration for such schools may be assumed by FNSRO as provided in paragraph (c) of this section, or such other agency of the State as has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer such schools. Each State agency desiring to administer the Program shall enter into a written agreement with the Department for the administration of the Program in accordance with the applicable requirements of this part; parts 235 and 245 of this chapter; parts 15, 15a, 15b, 3015 and 3016 of this title; and FNS instructions.

(c) *FNSRO.* The FNSRO will administer the Program in nonprofit private schools or public or nonprofit private residential child care institutions if the State agency is prohibited by law from disbursing Federal funds paid to such schools. In addition, the FNSRO will continue to administer the Program in those States in which nonprofit private schools or public or nonprofit private residential child care institutions have been under continuous FNS administration since October 1, 1980, unless the administration of the Program in such schools is assumed by the State. The FNSRO will, in each State in which it administers the Program, assume all responsibilities of a State agency as set forth in this part and part 245 of this chapter as appropriate. References in this part to "State agency" include FNSRO, as applicable, when it is the agency administering the Program.

(d) *School food authorities.* The school food authority shall be responsible for the administration of the Program in schools. State agencies shall ensure that school food authorities administer the Program in accordance with the applicable requirements of this part; part 245 of this chapter; parts 15, 15a, 15b, and 3016 or 3019, as applicable, of this title; and FNS instructions.

[53 FR 29147, Aug. 2, 1988, as amended at 71 FR 39515, July 13, 2006]

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Subpart B—Reimbursement Process for States and School Food Authorities

§210.4 Cash and donated food assistance to States.

(a) *General.* To the extent funds are available, FNS will make cash assistance available in accordance with the provisions of this section to each State agency for lunches and meal supplements served to children under the National School Lunch and Commodity School Programs. To the extent donated foods are available, FNS will provide donated food assistance to distributing agencies for each lunch served in accordance with the provisions of this part and part 250 of this chapter.

(b) *Assistance for the National School Lunch Program.* The Secretary will make cash and/or donated food assistance available to each State agency and distributing agency, as appropriate, administering the National School Lunch Program, as follows:

(1) Cash assistance will be made available to each State agency administering the National School Lunch Program as follows:

(i) *General:* Cash assistance payments are composed of a general cash assistance payment and a performance-based cash assistance payment, authorized under section 4 of the Act, and a special cash assistance payment, authorized under section 11 of the Act. General cash assistance is provided to each State agency for all lunches served to children in accordance with the provisions of the National School Lunch Program. Performance-based cash assistance is provided to each State agency for lunches served in accordance with §210.7(d). Special cash assistance is provided to each State agency for lunches served under the National School Lunch Program to children determined eligible for free or reduced price lunches in accordance with part 245 of this chapter.

(ii) *Cash assistance for lunches.* The total general cash assistance paid to each State for any fiscal year shall not exceed the lesser of amounts reported to FNS as reimbursed to school food authorities in accordance with §210.5(d)(3) or the total calculated by