

willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties.

[53 FR 29147, Aug. 2, 1988. Redesignated at 56 FR 32948, July 17, 1991]

**§210.27 Educational prohibitions.**

In carrying out the provisions of the Act, neither the Department nor the State agency shall impose any requirements with respect to teaching personnel, curriculum, instructions, methods of instruction, or materials of instruction in any school as a condition for participation in the Program.

[53 FR 29147, Aug. 2, 1988. Redesignated at 56 FR 32948, July 17, 1991]

**§210.28 State Food Distribution Advisory Council.**

(a) *Council composition.* Each State educational agency, in cooperation with the State distributing agency, shall establish a State Food Distribution (SFD) Advisory Council which is composed of at least five representatives, excluding ex officio representatives, of schools which participate in the Program in the State. The State should make every effort to appoint individuals who represent large urban public schools; small rural public schools; residential child care institutions; private schools; parent teacher organizations; students from junior or senior high schools; nutritionists; school administrators; and teachers. These representatives shall be appointed for not more than 3 years.

(b) *Council leadership.* The Chairman and Vice Chairman of the SFD Advisory Council shall be elected by members of the Council. The Chief State School Officer, or designee, shall be an ex officio member of the SFD Advisory Council acting in an advisory capacity and as a non-voting member. The Chief Officer of the State distributing agency which distributes USDA donated foods to schools within the State, or designee will be an ex officio member of the SFD Advisory Council, also acting in an advisory capacity and as a non-voting member. If the State educational agency and the State distributing agency are the same entity within the State, the ex officio member of the SFD Advisory Council shall be the

Chief Food Distribution Officer of the State educational agency, or designee.

(c) *Council timeframe.* The Council shall meet at least once a year and shall report to the State educational agency and State distributing agency, if it is a different entity, no later than March 30 of each year, recommendations concerning the manner of selection and distribution of commodity assistance for the next school year. The State educational agency shall inform FCSRO of the Council's recommendations no later than April 30 of each year.

(d) *Council responsibilities.* Major responsibilities of the Council include providing the State educational and distributing agencies with information concerning the most desired foods and the least desired foods. This information shall be obtained in a survey of school food authorities within the State. The Council shall also advise the State educational and distributing agencies on the types and amounts of available donated food items to order, the preferred available package size, and donated foods school food authorities would like processed and desired end products. The Council may also advise the State educational and distributing agency on intra State distribution systems, delivery schedules, and State food distribution program operations. Recommendations for the Department regarding national purchasing practices, changes in donated food specifications and packaging improvements may also be included in the report.

(e) *State responsibilities.* In reporting the Council's recommendations to FCSRO, the State educational agency shall include the number of school food authorities providing the required information to the Council; the average daily number of lunches served by schools in these school food authorities during April of the previous year; and the average daily number of lunches served by all school food authorities within the State during April of the previous year.

(f) *State recordkeeping.* The State educational agency shall maintain records concerning the survey of school food authorities including, at a minimum, a description of survey methods and a