

7 CFR part 3015, means the Uniform Federal Assistance Regulations published by the Department to implement Office of Management and Budget Circulars A-21, A-87, A-102, A-110, A-122, A-124, and A-128; the Single Audit Act of 1984 (31 U.S.C. 7501 et seq.); and Executive Order 12372.

NOTE: OMB Circulars, referred to in this definition, are available from the EOP Publications, New Executive Office Building, 726 Jackson Place NW, Room 2200, Washington, DC 20503.

*State* means any of the 50 States, District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, or the Federated States of Micronesia, the Republic of the Marshalls, and the Republic of Palau.

*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 FCSRO, where the FCSRO 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 Instruction, Commissioner of Education, or similar officer), or (b) a board of education controlling the State department of education.

*State food distribution advisory council* means a group which meets to advise the State educational agency and the State distributing agency with respect to the needs of schools participating in the Program concerning the manner of selection and distribution of commodities.

*Subsidized lunch* (paid lunch) means a lunch served to children who are either not eligible for or elect not to receive the free or reduced price benefits offered under 7 CFR part 245. The Department subsidizes each paid lunch with both general cash assistance and donated foods. Although a paid lunch student pays for a large portion of his or her lunch, the Department's subsidy

accounts for a significant portion of the cost of that lunch.

*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, as amended at 54 FR 12580, Mar. 28, 1989; 56 FR 32939, July 17, 1991; 58 FR 42487, Aug. 10, 1993; 60 FR 31207, June 13, 1995; 62 FR 10189, Mar. 6, 1997]

### §210.3 Administration.

(a) *FCS*. FCS will act on behalf of the Department in the administration of the Program. Within FCS, 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 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 FCSRO 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; part 235; part 245; parts 15, 15a, 15b, and 3015 of Departmental regulations; and FCS instructions.

(c) *FCSRO*. The FCSRO 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 FCSRO

will continue to administer the Program in those States in which non-profit private schools or public or non-profit private residential child care institutions have been under continuous FCS administration since October 1, 1980, unless the administration of the Program in such schools is assumed by the State. The FCSRO 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 FCSRO, 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; parts 15, 15a, 15b, and 3015 of Departmental regulations; and FCS instructions.

### 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, FCS 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, FCS 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 for lunches:* Cash assistance payments are composed of a *general* cash assistance payment, authorized under section 4 of the Act, and a *special* cash assistance payment, au-

thorized 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. 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. The total general cash assistance paid to each State for any fiscal year shall not exceed the lesser of amounts reported to FCS as reimbursed to school food authorities in accordance with § 210.5(d)(3) or the total calculated by multiplying the number of lunches reported in accordance with § 210.5(d)(1) for each month of service during the fiscal year, by the applicable national average payment rate prescribed by FCS. The total special assistance paid to each State for any fiscal year shall not exceed the lesser of amounts reported to FCS as reimbursed to school food authorities in accordance with § 210.5(d)(3) or the total calculated by multiplying the number of free and reduced price lunches reported in accordance with § 210.5(d)(1) for each month of service during the fiscal year by the applicable national average payment rate prescribed by FCS. In accordance with section 11 of the Act, FCS will prescribe annual adjustments to the per meal national average payment rate (general cash assistance) and the special assistance national average payment rates (special cash assistance) which are effective on July 1 of each year. These adjustments, which reflect changes in the food away from home series of the Consumer Price Index for all Urban Consumers, are annually announced by Notice in July of each year in the FEDERAL REGISTER. FCS will also establish maximum per meal rates of reimbursement within which a State may vary reimbursement rates to school food authorities. These maximum rates of reimbursement are established at the same time and announced in the same Notice as the national average payment rates.

(2) *Donated food assistance.* For each school year, FCS will provide distributing agencies with donated foods for