

## Food and Nutrition Service, USDA

## §215.14

the program by a child care institution operating a pricing program, and annually thereafter, shall require the institution to state whether or not it wishes to serve free milk to eligible children at times that milk is provided under the Program. It shall annually require each child care institution electing to provide free milk to submit a free milk policy statement and shall provide such institutions with a prototype free milk policy statement and a copy of the State's family-size income standards for determining eligibility for free meals and milk under the National School Lunch and School Breakfast Programs to assist the institutions in meeting its responsibilities.

(c) *Action by institutions.* Each child care institution which operates a pricing program shall inform the State agency, or FNSRO where applicable, at the time it applies for Program participation and at least annually thereafter, whether or not it wishes to provide free milk. Institutions electing to provide free milk shall annually submit a written free milk policy statement for determining free milk eligibility of children under their jurisdiction, which shall contain the items specified in paragraph (d) of this section. Such institutions shall not be approved for Program participation of their agreements renewed unless the free milk policy has been reviewed and approved. Pending approval or a revision of a policy statement, the existing policy shall remain in effect.

(d) *Policy statement.* A free milk policy statement as required in paragraph (c) of this section shall contain the following:

(1) The specific criteria to be used in determining eligibility for free milk. These criteria shall give consideration to economic need as reflected by family size and income. The criteria used by the child-care institution may not result in the eligibility of children from families whose incomes exceed the State's family-size income standards for determining eligibility for free meals under the National School Lunch and School Breakfast Programs.

(2) The method by which the child-care institution will collect information from families in order to determine a child's eligibility for free milk.

(3) The method by which the child-care institution will collect milk payments so as to prevent the overt identification of children receiving free milk.

(4) A hearing procedure substantially like that outlined in part 245 of this chapter.

(5) An assurance that there will be no discrimination against free milk recipients and no discrimination against any child on the basis of race, color, or national origin.

(e) *Public announcement of eligibility criteria.* Each child care institution which elects to make free milk available under the Program shall annually make a public announcement of the availability of free milk to children who meet the approved eligibility criteria to the information media serving the area from which its attendance is drawn. The public announcement must also state that milk is available to all children in attendance without regard to race, color, or national origin.

(Sec. 11, Pub. L. 95-166, 91 Stat. 1337 (42 U.S.C. 1772, 1753, 1766); sec. 5, Pub. L. 95-627, 92 Stat. 3619 (42 U.S.C. 1772))

[Amdt. 14, 41 FR 31176, July 27, 1976, as amended by Amdt. 16, 43 FR 1060, Jan. 6, 1978; 44 FR 10700, Feb. 23, 1979; Amdt. 17, 44 FR 33047, June 8, 1979]

### §215.14 Nondiscrimination.

The Department's regulations on nondiscrimination in federally assisted programs are set forth in part 15 of this title. The Department's agreements with State agencies, the State agencies' agreements with School Food Authorities and child-care institutions and the FNSRO agreements with School Food Authorities administering nonprofit private schools and with child-care institutions shall contain the assurances required by such regulations. When different types of milk are served to children, (a) a uniform price for each type of milk served shall be charged to all non-needy children in the school or child-care institution who purchase milk, and (b) needy children shall be given the opportunity to select any type of milk offered.

(44 U.S.C. 3506)

[Amdt. 13, 39 FR 28418, Aug. 7, 1974, as amended at 47 FR 745, Jan. 7, 1982]