

Food and Nutrition Service, USDA

§ 225.7

(c) * * *
(2) * * *

(iv) For sites that serve homeless children, information sufficient to demonstrate that the sites are not residential child care institutions, as defined in paragraph (c) of the definition of *School* in §210.2 of this chapter. If cash payments, food stamps, or any in-kind service are required of any meal recipient at these sites, sponsors must describe the method(s) used to ensure that no such payments or services are received for any Program meal served to children. In addition, sponsors must certify that these sites employ meal counting methods to ensure that reimbursement is claimed only for meals served to children.

(v) For NYSP sites, certification from the sponsor that all the children who will receive Program meals are enrolled participants in the NYSP.

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(3) Each applicant must submit a statement of nondiscrimination in its policy of serving meals to children. The statement must consist of an assurance that all children are served the same meals and that there is no discrimination in the course of the food service. A school sponsor must submit the policy statement only once, with the initial application to participate as a sponsor. However, if there is a substantive change in the school's free and reduced price policy, a revised policy statement must be provided at the State agency's request.

(i) In addition to the policy of service/nondiscrimination statement described in paragraph (c)(3) of this section, all applicants except camps must include a statement that the meals served are free at all sites.

(ii) In addition to the policy of service/nondiscrimination statement described in paragraph (c)(3) of this section, all applicants that are camps that charge separately for meals must include the following:

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(B) A description of the method or methods to be used in accepting applications from families for Program meals. Such methods must ensure that households are permitted to apply on behalf of children who are members of households receiving food stamp, FDPIR, or TANF benefits using the categorical eligibility procedures described in §225.15(f).

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(e) * * *

(1) Operate a nonprofit food service during any period from May through September for children on school vacation; or, at any time of the year, in the case of sponsors admin-

istering the Program under a continuous school calendar system;

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§ 225.7 Program monitoring and assistance.

(a) *Training.* Prior to the beginning of Program operations, each State agency shall make available training in all necessary areas of Program administration to sponsor personnel, food service management company representatives, auditors, and health inspectors who will participate in the Program in that State. Prior to Program operations, the State agency shall ensure that the sponsor's supervisory personnel responsible for the food service receive training in all necessary areas of Program administration and operations. This training shall reflect the fact that individual sponsors or groups of sponsors require different levels and areas of Program training. State agencies are encouraged to utilize in such training, and in the training of site personnel, sponsor personnel who have previously participated in the Program. Training should be made available at convenient locations. State agencies are not required to conduct this training for sponsors operating the Program during unanticipated school closures during the period from October through April (or at any time of the year in an area with a continuous school calendar).

(b) *Program materials.* Each State agency shall develop and make available all necessary Program materials in sufficient time to enable applicant sponsors to prepare adequately for the Program.

(c) *Food specifications and meal quality standards.* With the assistance of the Department, each State agency shall develop and make available to all sponsors minimum food specifications and model meal quality standards which shall become part of all contracts between vended sponsors and food service management companies.

(d) *Program monitoring and assistance.* The State agency shall conduct Program monitoring and provide Program assistance according to the following provisions:

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(1) *Pre-approval visits.* The State agency shall conduct pre-approval visits of sponsors and sites, as specified below, to assess the applicant sponsor's or site's potential for successful Program operations and to verify information provided in the application. The State agency shall visit prior to approval:

(i) All applicant sponsors which did not participate in the program in the prior year. However, if a sponsor is a school food authority, has been reviewed by the State agency under the National School Lunch Program during the preceding 12 months, and had no significant deficiencies noted in that review, a pre-approval visit may be conducted at the discretion of the State agency. In addition, pre-approval visits of sponsors proposing to operate the Program during unanticipated school closures during the period from October through April (or at any time of the year in an area with a continuous school calendar) may be conducted at the discretion of the State agency;

(ii) All applicant sponsors which, as a result of operational problems noted in the prior year, the State agency has determined need a pre-approval visit; and

(iii) All sites which the State agency has determined need a pre-approval visit.

(2) *Sponsor and site reviews—(i) General.* The State agency must review sponsors and sites to ensure compliance with Program regulations, the Department's non-discrimination regulations (7 CFR part 15) and any other applicable instructions issued by the Department. In determining which sponsors and sites to review, the State agency must, at a minimum, consider the sponsors' and sites' previous participation in the Program, their current and previous Program performance, and the results of previous reviews of the sponsor and sites. When the same school food authority personnel administer this Program as well as the National School Lunch Program (7 CFR part 210), the State agency is not required to conduct a review of the Program in the same year in which the National School Lunch Program operations have been reviewed and deter-

mined to be satisfactory. Reviews shall be conducted as follows:

(ii) *Frequency and number of required reviews.* State agencies shall:

(A) Conduct a review of every new sponsor at least once during the first year of operation;

(B) Annually review a number of sponsors whose program reimbursements, in the aggregate, accounted for at least one-half of the total program meal reimbursements in the State in the prior year;

(C) Annually review every sponsor which experienced significant operational problems in the prior year;

(D) Review each sponsor at least once every three years; and

(E) As part of each sponsor review, conduct reviews of at least 10 percent of each sponsor's sites, or one site, whichever number is greater.

(3) *Follow-up reviews.* The State agency shall conduct follow-up reviews of sponsors and sites as necessary.

(4) *Monitoring system.* Each State agency shall develop and implement a monitoring system to ensure that sponsors, including site personnel, and the sponsor's food service management company, if applicable, immediately receive a copy of any review reports which indicate Program violations and which could result in a Program disallowance.

(5) *Records.* Documentation of Program assistance and the results of such assistance shall be maintained on file by the State agency.

(6) *Food service management company facility visits.* As a part of the review of any vended sponsor which contracts for the preparation of meals, the State agency shall inspect the food service management company's facilities. Each State agency shall establish an order of priority for visiting facilities at which food is prepared for the Program. The State agency shall respond promptly to complaints concerning facilities. If a food service management company fails to correct violations noted by the State agency during a review, the State agency shall notify the sponsor and the food service management company that reimbursement shall not be paid for meals prepared by the food service management company

after a date specified in the notification. Funds provided for in §225.5(f) may be used for conducting food service management company facility inspections.

(7) *Forms for reviews by sponsors.* Each State agency shall develop and provide monitor review forms to all approved sponsors. These forms shall be completed by sponsor monitors. The monitor review form shall include, but not be limited to, the time of the reviewer's arrival and departure, the site supervisor's signature, a certification statement to be signed by the monitor, the number of meals prepared or delivered, the number of meals served to children, the deficiencies noted, the corrective actions taken by the sponsor, and the date of such actions.

(8) *Statistical monitoring.* State agencies may use statistical monitoring procedures in lieu of the site monitoring requirements prescribed in paragraph (d)(2) of this section to accomplish the monitoring and technical assistance aspects of the Program. State agencies which use statistical monitoring procedures may use the findings in evaluating claims for reimbursement. Statistical monitoring may be used for some or all of a State's sponsors. Use of statistical monitoring does not eliminate the requirements for reviewing sponsors as specified in paragraph (d)(2) of this section.

(9) *Corrective actions.* Corrective actions which the State agency may take when Program violations are observed during the conduct of a review are discussed in §225.11. The State agency shall conduct follow-up reviews as appropriate when corrective actions are required.

(e) *Other facility inspections and meal quality tests.* In addition to those inspections required by paragraph (d)(6) of this section, the State agency may also conduct, or arrange to have conducted: inspections of self-preparation and vended sponsors' food preparation facilities; inspections of food service sites; and meal quality tests. The procedures for carrying out these inspections and tests shall be consistent with procedures used by local health authorities. For inspections of food service management companies' facilities

not conducted by State agency personnel, copies of the results shall be provided to the State agency. The company and the sponsor shall also immediately receive a copy of the results of these inspections when corrective action is required. If a food service management company fails to correct violations noted by the State agency during a review, the State agency shall notify the sponsor and the food service management company that reimbursement shall not be paid for meals prepared by the food service management company after a date specified in the notification. Funds provided for in §225.5(f) may be used for conducting these inspections and tests.

(f) *Financial management.* Each State agency shall establish a financial management system, in accordance with the Department's Uniform Financial Assistance Regulations (7 CFR part 3015) and FNS guidance, to identify allowable Program costs and to establish standards for sponsor recordkeeping and reporting. The State agency shall provide guidance on these financial management standards to each sponsor.

(g) *Nondiscrimination.* (1) Each State agency shall comply with all requirements of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Department's regulations concerning nondiscrimination (7 CFR parts 15, 15a and 15b), including requirements for racial and ethnic participation data collection, public notification of the nondiscrimination policy, and reviews to assure compliance with such policy, to the end that no person shall, on the grounds of race, color, national origin, sex, age, or handicap, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, the Program.

(2) Complaints of discrimination filed by applicants or participants shall be referred to FNS or the Secretary of Agriculture, Washington, DC 20250. A State agency which has an established

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grievance or complaint handling procedure may resolve sex and handicap discrimination complaints before referring a report to FNS.

[54 FR 18208, Apr. 27, 1989, as amended at 55 FR 13468, Apr. 10, 1990; 64 FR 72485, Dec. 28, 1999]

EFFECTIVE DATE NOTE 1: At 64 FR 72485, Dec. 28, 1999, §225.7 was amended by removing the last sentence in paragraph (a), by adding a penultimate sentence to the introductory text in paragraph (d)(2), by removing paragraph (d)(2)(ii), and by redesignating paragraph (d)(2)(iii) as paragraph (d)(2)(ii), effective Jan. 27, 2000. For the convenience of the user, the superseded text follows.

§ 225.7 Program monitoring and assistance.

(a) * * * In the training of private nonprofit organizations, State agencies shall give special emphasis to proper meal counting techniques, meal pattern requirements, free and reduced price application requirements, restrictions on second meal service, the prohibition on off-site meal consumption, timely and accurate claims submission, and recordkeeping. * * *

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(ii) Beginning in Fiscal Year 1991, State agencies shall conduct a review of academic-year NYSP sponsors, and at least one of their sites, during the period October through April.

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EFFECTIVE DATE NOTE 2: At 64 FR 72898, Dec. 29, 1999, §225.7 was amended by adding a new sentence at the end of paragraph (a); by removing the semicolon at the end of paragraph (d)(1)(i), adding a period in its place, and adding a new sentence at the end of the paragraph; by revising paragraph (d)(1)(iii); by removing paragraph (d)(1)(iv); and by revising paragraph (d)(2), effective Jan. 28, 2000. For the convenience of the user, the superseded text follows.

§ 225.7 Program monitoring and assistance.

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(iii) With the exception of sites administered by private nonprofit organizations, all proposed nonschool sites with an expected average daily attendance of 300 children or

more which did not participate in the Program in the prior year.

(iv) In the case of private nonprofit organizations, all proposed sites with an expected attendance at an approved meal service of 100 children or more which did not participate in the Program in the prior year.

(2) *Sponsor and site reviews.* The State agency shall review sponsors and sites to ensure compliance with Program regulations, the Department's nondiscrimination regulations (7 CFR part 15) and any other applicable instructions issued by the Department. In determining which sponsors and sites to review under this paragraph, the State agency shall, at a minimum, consider the sponsors' and sites' previous participation in the Program, their current and previous Program performance, and the results of any previous reviews of the sponsor and sites. When the same school food authority personnel administer this Program as well as the National School Lunch Program (part 210 of this chapter), the State agency is not required to conduct a review of the Program in the same year in which the National School Lunch Program operations have been reviewed and determined to be satisfactory. Reviews shall be conducted as follows:

(i) State agencies conduct both a review of sponsor operations and review an average of 15 percent of the following sponsors' sites (with a minimum of one site reviewed per sponsor) during the first four weeks of operation:

(A) Private nonprofit organizations which administer only urban sites, when such sponsors did not participate in the prior year's SFSP and administer three or more urban sites;

(B) Other private nonprofit organizations which are determined by the State agency to need early reviews;

(C) Any sponsors, including private nonprofit organizations, which have 10 or more sites and which did not operate the Program in the prior year; and

(D) Other sponsors of 10 or more sites which are determined by the State agency to need early reviews.

(ii) In addition to the reviews specified in paragraphs (d)(2)(i) and (d)(2)(ii) of this section, the State agency shall also conduct the following reviews (with a minimum of one site reviewed per sponsor) at least once during the Program:

(A) For all remaining sponsors with 10 or more sites, an average of at least 15 percent of their sites; and

(B) For 70 percent of sponsors with fewer than 10 sites, an average of at least 10 percent of their sites.

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