

Food and Nutrition Service, USDA

§ 235.2

AUTHORITY: Secs. 7 and 10 of the Child Nutrition Act of 1966, 80 Stat. 888, 889, as amended (42 U.S.C. 1776, 1779).

SOURCE: 41 FR 32405, Aug. 3, 1976, unless otherwise noted.

§ 235.1 General purpose and scope.

This part announces the policies and prescribes the regulations necessary to carry out the provisions of section 7 of the Child Nutrition Act of 1966, as amended. It prescribes the methods for making payments of funds to State agencies for use for administrative expenses incurred in supervising and giving technical assistance in connection with activities undertaken by them under the National School Lunch Program (7 CFR part 210), the Special Milk Program (7 CFR part 215), the School Breakfast Program (7 CFR part 220), the Child and Adult Care Food Program (7 CFR part 226) and the Food Distribution Program (7 CFR part 250).

(Sec. 7, Pub. L. 95-627, 92 Stat. 3621 (42 U.S.C. 1776))

[44 FR 51185, Aug. 31, 1979, as amended by Amdt. 17, 55 FR 1378, Jan. 16, 1990; 60 FR 15461, Mar. 24, 1995]

§ 235.2 Definitions.

For the purpose of this part, the term:

7 CFR part 3015 means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal with competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under USDA programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements.

7 CFR part 3016 means the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 7 CFR part 3016 covers requirements for awards and subawards to State and local governmental organizations under Department programs.

7 CFR part 3018 means the Department's Common Rule regarding Governmentwide New Restrictions on Lob-

bying. Part 3018 implements the requirements established by section 319 of the 1990 Appropriations Act for the Department of Interior and Related Agencies (Pub. L. 101-121).

7 CFR part 3019 means the Department's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. 7 CFR part 3019 covers requirements for awards and subawards to nongovernmental, nonprofit organizations under Department programs.

7 CFR part 3052 means the Department's regulations implementing OMB Circular A-133, "Audits of State, Local Governments, and Non-Profit Organizations." (For availability of OMB Circulars referenced in this definition, see 5 CFR 1310.3.)

Act means the Child Nutrition Act of 1966, as amended.

CND means the Child Nutrition Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

Department means the U.S. Department of Agriculture.

Distributing agency means a State agency which enters into an agreement with the Department for the distribution of donated foods pursuant to part 250 of this title.

FNS means the Food and Nutrition Service of the U.S. Department of Agriculture.

FNSRO means the appropriate Food and Nutrition Service Regional Office of the Food and Nutrition Service of the U.S. Department of Agriculture.

Fiscal year means a period of 12 calendar months beginning October 1, 1976, and October 1 of each calendar year thereafter and ending with September 30 of the following calendar year.

Institution means a child or adult care center or a sponsoring organization as defined in part 226 of this chapter.

Nonprofit means exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1986.

OIG means the Office of the Inspector General of the Department.

SAE means federally provided State administrative expense funds for State agencies under this part.

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School means the term as defined in §§ 210.2, 215.2, and 220.2 of this chapter, as applicable.

School Food Authority means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a breakfast or a lunch program therein. The term “School Food Authority” also includes a non-profit agency or organization to which such governing body has delegated authority to operate the lunch or breakfast program in schools under its jurisdiction, provided the governing body retains the responsibility to comply with breakfast or lunch program regulations.

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 (1) the State educational agency or (2) 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 programs under part 210, 215, 220, 226 or 250 of this title. Unless otherwise indicated, “State agency” shall also mean *Distributing agency* as defined in this section., when such agency is receiving funds directly from FNS under this part.

State educational agency means, as the State legislature may determine: (1) The chief State school officer (such as the State Superintendent of Public Instruction, Commissioner of Education, or similar officer), or (2) a board of edu-

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cation controlling the State department of education.

(Sec. 7, Pub. L. 95–627, 92 Stat. 3621 (42 U.S.C. 1776); sec. 205, Pub. L. 96–499, The Omnibus Reconciliation Act of 1980, 94 Stat. 2599; secs. 807 and 808, Pub. L. 97–35, 95 Stat. 521–535 (42 U.S.C. 1772, 1784, 1760); Pub. L. 79–396, 60 Stat. 231 (42 U.S.C. 1751); Pub. L. 89–642, 80 Stat. 885–890 (42 U.S.C. 1773); Pub. L. 91–248, 84 Stat. 207 (42 U.S.C. 1759)

[41 FR 32405, Aug. 3, 1976, as amended at 44 FR 48957, Aug. 21, 1979; 44 FR 51185, Aug. 31, 1979; Amdt. 9, 48 FR 19355, Apr. 29, 1983; Amdt. 14, 51 FR 27151, July 30, 1986; 54 FR 2991, Jan. 23, 1989; Amdt. 17, 55 FR 1378, Jan. 16, 1990; 60 FR 15461, Mar. 24, 1995; 64 FR 50743, Sept. 20, 1999; 71 FR 39519, July 13, 2006; 72 FR 63792, Nov. 13, 2007]

§ 235.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the program for payment to States of State administrative expense funds covered by this part. Within FNS, CND shall be responsible for administration of the program.

(b) Each State agency desiring to receive payments under this part shall enter into a written agreement with the Department for the administration of the child nutrition programs in accordance with the applicable requirements of this part, 7 CFR parts 210, 215, 220, 225, 226, 245, 15, 15a, 15b, 3015, and 3016. Each agreement shall cover the operation of the Program during the period specified therein and may be extended at the option of the Department.

(Sec. 14, Pub. L. 95–166, 91 Stat. 1338 (42 U.S.C. 1776); sec. 7, Pub. L. 95–627, 92 Stat. 3621 (42 U.S.C. 1776))

[41 FR 32405, Aug. 3, 1976, as amended at 44 FR 48957, Aug. 21, 1979; Amdt. 14, 51 FR 27151, July 30, 1986; 71 FR 39519, July 13, 2006]

§ 235.4 Allocation of funds to States.

(a) *Nondiscretionary SAE Funds.* For each fiscal year, FNS shall allocate the following:

(1) To each State which administers the National School Lunch, School Breakfast or Special Milk Programs an amount equal to one (1) percent of the funds expended by such State during the second preceding fiscal year under sections 4 and 11 of the National School