

## Food and Nutrition Service, USDA

## §215.2

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AUTHORITY: 42 U.S.C. 1772 and 1779.

### §215.1 General purpose and scope.

This part announces the policies and prescribes the general regulations with respect to the Special Milk Program for Children, under the Child Nutrition Act of 1966, as amended, and sets forth the general requirements for participation in the program. The Act reads in pertinent part as follows:

Section 3(a)(1) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (A) nonprofit schools of high school grade and under, except as provided in paragraph (2), which do not participate in a meal service program authorized under this Act or the National School Lunch Act, and (B) nonprofit nursery schools, child care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children, which do not participate in a meal service program authorized under this Act or the National School Lunch Act.

(2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 *et seq.*).

(3) For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia.

(4) The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the spe-

cial milk program provided for by Pub. L. 89-642, as amended, during the fiscal year ending June 30, 1969.

(5) Any school or nonprofit child care institution which does not participate in a meal service program authorized under this Act or the National School Lunch Act shall receive the special milk program upon their request.

(6) Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) be eligible for free milk upon their request.

(7) For the fiscal year ending June 30, 1975, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor.

(8) Such adjustment shall be computed to the nearest one-fourth cent.

(9) Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.

[52 FR 7562, Mar. 12, 1987]

### §215.2 Definitions.

For the purpose of this part, the term:

(a) *Act* means the Child Nutrition Act of 1966.

(b) *Adults* means those persons not included under the definition of children.

(c) [Reserved]

(d) *Child and Adult Care Food Program* means the program authorized by section 17 of the National School Lunch Act, as amended.

(e) *Child-care institution* means any nonprofit nursery school, child-care center, settlement house, summer camp, service institution participating in the Summer Food Program for Children pursuant to part 225 of this chapter, institution participating in the Child and Adult Care Food Program pursuant to part 226 of this chapter, or similar nonprofit institution devoted to the care and training of children. The term "child-care institution" also includes a nonprofit agency to which such institution has delegated authority for the operation of a milk program