

## § 220.14

## 7 CFR Ch. II (1–1–03 Edition)

Program for compliance with the provisions of this part when such schools are being reviewed under the provisions identified under § 210.18(i) of this title. Compliance reviews of participating schools shall focus on the reviewed school's compliance with the required certification, counting and breakfast service procedures. School food authorities may appeal a denial of all or a part of the Claim for Reimbursement or withholding of payment arising from review activity conducted by the State agency under § 210.18 of this title or by FNS under § 210.30(d)(2) of this title. Any such appeal shall be subject to the procedures set forth under § 210.18(q) of this title or § 210.30(d)(3) of this title, as appropriate.

(3) For the purposes of compliance with the nutrition standards in § 220.8(a) and the nutrient and calorie levels in § 220.8(b) or (c) or those developed under § 220.8(e)(1) or (h), the State agency shall follow the provisions specified § 210.19(a)(1) of this chapter.

(4) Such assistance shall include visits to participating schools to ensure compliance with program regulations and with the Department's non-discrimination regulations (part 15 of this title), issued under title VI, of the Civil Rights Act of 1964.

(5) Documentation of such assistance shall be maintained on file by the State agency, or FNSRO where applicable.

(g) State agencies shall adequately safeguard all assets and assure that they are used solely for authorized purposes.

(h) [Reserved]

(i) Each State agency, or FNS where applicable, shall establish a financial management system under which School Food Authorities shall account for all revenues and expenditures of their nonprofit school food service. The system shall prescribe the allowability of nonprofit school food service expenditures in accordance with this part and, as applicable, the cost principles contained in OMB Circular A-87 and 7 CFR part 3015. The system shall permit determination of school food service net cash resources, and shall include any criteria for approval of net cash resources in excess of three months average expenditures. In addition, School

Food Authorities shall be required to account separately for other food services which are operated by the School Food Authority.

(j) During audits, supervisory assistance reviews, or by other means, State agencies, or FNSROs where applicable, shall be responsible for monitoring the net cash resources of the nonprofit school food service of each School Food Authority participating in the Program. In the event that such resources exceed three months average expenditures for the School Food Authority's nonprofit school food service, or such amount as may be approved by the State agency or FNSRO where applicable, the State agency or FNSRO where applicable, may require the School Food Authority to reduce children's prices, improve food quality or take other actions designed to improve the nonprofit school food service. In the absence of any such action, adjustments in the rates of reimbursement under the Program shall be made.

(k) State agencies shall require compliance by School Food Authorities with applicable provisions of this part.

(44 U.S.C. 3506; sec. 812, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1759a); sec. 819, Pub. L. 97-35, 95 Stat. 533 (42 U.S.C. 1759a, 1773 and 1757); 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))

[32 FR 37, Jan. 5, 1967. Redesignated by Amdt. 2, 33 FR 14513, Sept. 27, 1968]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 220.13, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 220.14 Claims against school food authorities.

(a) State agencies shall disallow any portion of a claim and recover any payment made to a School Food Authority that was not properly payable under this part. State agencies will use their own procedures to disallow claims and recover overpayments already made.

(b) [Reserved]

(c) The State agency may refer to CND through the FNSRO for determination any action it proposes to take under this section.

(d) The State agency shall maintain all records pertaining to action taken

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under this section. Such records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain.

(e) If CND does not concur with the State agency's action in paying a claim or a reclaim, or in failing to collect an overpayment, CND shall assert a claim against the State agency for the amount of such claim, reclaim, or overpayment. In all such cases the State agency shall have full opportunity to submit to CND evidence or information concerning the action taken. If, in the determination of CND, the State agency's action was unwarranted, the State agency shall promptly pay to FNS the amount of the claim, reclaim, or overpayment.

(f) The amounts recovered by the State agency from Schools may be utilized, first, to make payments to School Food Authorities for the purposes of the related program during the fiscal year for which the funds were initially available, and second to repay any State funds expended in the reimbursement of claims under the program and not otherwise repaid. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this part.

(g) With respect to School Food Authorities of schools in which the program is administered by FNSRO, when FNSRO disallows a claim or a portion of a claim, or makes a demand for refund of an alleged overpayment, it shall notify the School Food Authority of the reasons for such disallowance or demand and the School Food Authority shall have full opportunity to submit evidence or to file reclaims for any amounts disallowed or demanded in the same manner as that afforded in this section to School Food Authorities of schools in which the program is administered by State agencies.

(h) In the event that the State agency or FNSRO, where applicable, finds that a school is failing to meet the requirements of § 220.8(g), § 220.8(i)(2) and (i)(3), whichever is applicable, the State agency or FNSRO need not disallow payment or collect an overpayment arising out of such failure, if the State agency or FNSRO takes such other action as, in its opinion, will have a corrective effect.

(i) The Secretary shall have the authority to determine the amount of, to settle, and to adjust any claim arising under the Program, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of the Program. This provision shall not diminish the authority of the Attorney General of the United States under section 516 of Title 28, U.S. Code, to conduct litigation on behalf of the United States.

(44 U.S.C. 3506; secs. 804, 816 and 817, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1756, 1759, 1771 and 1785))

[32 FR 37, Jan. 5, 1967. Redesignated by Amdt. 2, 33 FR 14513, Sept. 27, 1968, and amended by Amdt. 9, 37 FR 9614, May 13, 1972; 40 FR 30925, July 24, 1975. Redesignated and amended by Amdt. 25, 41 FR 34757, 34760, Aug. 17, 1976; 47 FR 746, Jan. 7, 1982; Amdt. 42, 47 FR 14134, Apr. 2, 1982; 60 FR 31222, June 13, 1995; 65 FR 26931, May 9, 2000]

### § 220.15 Management evaluations and audits.

(a) State agencies and school food authorities shall comply with the requirements of part 3015 of this title concerning the audit requirements for recipients and subrecipients of the Department's financial assistance.

(b) These requirements call for organization-wide financial and compliance audits to ascertain whether financial operations are conducted properly; financial statements are presented fairly; recipients and subrecipients comply with the laws and regulations that affect the expenditures of Federal funds; recipients and subrecipients have established procedures to meet the objectives of federally assisted programs; and recipients and subrecipients are providing accurate and reliable information concerning grant funds. States and school food authorities shall use their own procedures to arrange for and prescribe the scope of independent audits, provided that such audits comply with the requirements set forth in part 3016 of this title.

(c) Each State agency shall provide FNS with full opportunity to conduct management evaluations (including visits to schools) of all operations of the State agency under the programs