

Food and Nutrition Service, USDA

§ 235.2

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:

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

(b) *CND* means the Child Nutrition Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

(c) *Department* means the U.S. Department of Agriculture.

(d) *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.

(e) [Reserved]

(f) *FNS* means the Food and Nutrition Service of the U.S. Department of Agriculture.

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

(h) *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.

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

(j)-(k) [Reserved]

(l) *OIG* means the Office of the Inspector General of the Department.

(m) [Reserved]

(n) *SAE* means federally provided State administrative expense funds for State agencies under this part.

(o) *School* means the term as defined in sections 210.2, 215.2(v), 220.2(u), and 226.2 of this chapter, as applicable.

(p) *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.

(q) *Secretary* means the Secretary of Agriculture.

(q-1) *7 CFR part 3015* means the Uniform Federal Assistance Regulations published by the Department to implement OMB Circulars A-21, A-87, A-102, A-110, and A-122; and Executive Order 12372. (For availability of OMB Circulars referenced in this definition, see 5 CFR 1310.3.)

(q-2) *7 CFR part 3017* means the Department's regulation to implement Executive Order 12549, covering governmentwide rules on suspension and debarment as well as The Drug Free Workplace Act of 1988.

(q-3) *7 CFR part 3018* means the Department's Common Rule regarding Governmentwide New Restrictions on Lobbying. 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).

(q-4) *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.)

(r) *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.

(s) *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 § 235.2(d), when such agency is receiving

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funds directly from FNS under this part.

(t) *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 education 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]

§ 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. 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]

§ 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 Lunch Act, as amended, and sections 3, 4 and 17A of the Child Nutrition Act of 1966, as amended. However, the total amount allocated to any State under this paragraph shall not be less than \$100,000 or the amount allocated to the State in the fiscal year ending September 30, 1981, whichever is greater.

(2) To each State which administers the Child and Adult Care Food Program an amount equal to the sum of: Twenty percent of the first \$50,000; ten percent of the next \$100,000; five percent of the next \$250,000; and two and one-half percent of any remaining funds expended within the State under section 17 of the National School Lunch Act, as amended, during the second preceding fiscal year. FNS may adjust the amount of any such allocation in accordance with changes in the size of the Child and Adult Care Food Program in a State.

(b) *Discretionary SAE Funds*. For each fiscal year, FNS shall provide the following additional allocations:

(1) Allocate \$30,000 to each State which administers the Child and Adult Care Food Program (7 CFR part 226).

(2) \$30,000 to each State which administers the Food Distribution Program (part 250 of this chapter) in schools and/or institutions which participate in programs under parts 210, 220, 226 of this chapter.

(3) Amounts derived by application of the following four-part formula to each State agency which is allocated funds under paragraph (a) of this section:

(i) One equal share of forty (40) percent of the funds designated by FNS for the reviews conducted under § 210.18 of this title.

(ii) The ratio of the number of School Food Authorities participating in the National School Lunch or Commodity School Programs under the jurisdiction of the State agency to such School Food Authorities in all States times twenty (20) percent of the funds designated by FNS for reviews conducted under § 210.18 or of this title.

(iii) The ratio of the number of free and reduced price meals served in School Food Authorities under the jurisdiction of the State agency during the second preceding fiscal year to the