

Federal Compliance Reviews for Child Nutrition Programs (CNP)



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ALABAMA



Introduce

- Authorizations for CNP operations
- CNP operations utilized by schools

Provide an Overview

Federal compliance rules and regulations authorizing administrative reviews for CNP operations

Answer

Questions regarding CNP operations as it relates to administrative reviews



Legislative Authority



Congress passes legislation into laws that govern the United States. These laws usually authorize or direct United States Dept of Agriculture (USDA) or another Federal agency (exp. USDE) to develop regulations that both implement and help enforce the laws. Both legislation and regulations are legally binding.

- ❖ Healthy, Hunger-Free Kids Act of 2010
- ❖ Richard B. Russell National School Lunch Act 1946
- ❖ Child Nutrition Act of 1966





Regulative Authority



The [Code of Federal Regulations \(CFR\) annual edition](#) is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government produced by the Office of the Federal Register and the Government Publishing Office. Below are a few of the regulations that pertain to CNP published by USDA.

- [7 CFR Part 210: National School Lunch Program](#)
 - [7 CFR Part 220: School Breakfast Program](#)
- [7 CFR Part 245: Free and Reduced-Price Eligibility](#)
- [7 CFR Part 250 USDA Donated Foods in Schools](#)
 - [7 CFR Part 226: Child and Adult Care Program](#)
 - [7 CFR Part 225: Summer Food Service Program](#)





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SCHOOLS

National School Lunch Program (NSLP)

7 CFR Part 210

- Special Milk Program 7 CFR Part 215
- School Breakfast Program 7 CFR Part 220
- Fresh Fruit and Vegetable Program
- Afterschool Snack Service
- Seamless Summer Option



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CARE CENTERS

Child and Adult Care Food Program (CACFP)

7 CFR Part 226

- Afterschool AT RISK Care
- Child Daycare Centers
- Family Daycare Homes
- Adult Daycare Centers



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SUMMER

Summer Food Service Program (SFSP)

7 CFR Part 225

- Closed Enrolled Sites
- Open Sites
- Restricted Open Sites
- Camps



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COMMUNITY

Food Distribution Programs

- **USDA Donated Foods in Schools**
7 CFR Part 250
- **The Emergency Food Assistance Program (TEFAP)** 7 CFR Part 251
 - **School Pantries**

A close-up, slightly blurred photograph of a person's hand holding a yellow pencil. The hand is positioned over a laptop keyboard, with the fingers resting on the keys. The background is a soft, out-of-focus view of the laptop and the hand's movement.

Federal Regulations for Administrative Reviews

7 CFR Part 210.18 -- Administrative reviews.

(a) ***Programs covered and methodology.*** Each State agency must follow the requirements of this section to conduct administrative reviews of school food authorities (SFAs) participating in the National School Lunch Program and the School Breakfast Program (part 220 of this chapter). These procedures must also be followed, as applicable, to conduct administrative reviews of the National School Lunch Program's Afterschool Snacks and Seamless Summer Option, the Special Milk Program (part 215 of this chapter), and the Fresh Fruit and Vegetable Program. To conduct a program review, the State agency must gather and assess information off-site and/or on-site, observe the school food service operation, and use a risk-based approach to evaluate compliance with specific program requirements.

7 CFR 210.18 (b) Definitions:

The following definitions are provided in alphabetical order in order to clarify State agency administrative review requirements:

Administrative reviews: The comprehensive off-site and/or on-site evaluation of all school food authorities participating in the programs specified in paragraph (a) of this section. The term “administrative review” is used to reflect a review of both critical and general areas in accordance with paragraphs (g) and (h) of this section, as applicable for each reviewed program, and includes other areas of program operations determined by the State agency to be important to program performance.

Critical areas: The following two performance standards described in detail in paragraph (g) of this section:

- (i) Performance Standard 1** —All free, reduced price and paid school meals claimed for reimbursement are served only to children eligible for free, reduced price and paid school meals, respectively; and are counted, recorded, consolidated and reported through a system which consistently yields correct claims.
- (ii) Performance Standard 2** —Reimbursable lunches meet the meal requirements in § 210.10, as applicable to the age/grade group reviewed. Reimbursable breakfasts meet the meal requirements in § 220.8 of this chapter, as applicable to the age/grade group reviewed.

Day of Review: The day(s) on which the on-site review of the individual sites selected for review occurs.

Continues...

7 CFR 210.18 (b) Definitions:

The following definitions are provided in alphabetical order in order to clarify State agency administrative review requirements:

Documented corrective action: Written notification required of the school food authority to certify that the corrective action required for each violation has been completed and to notify the State agency of the dates of completion. Documented corrective action may be provided at the time of the review or may be submitted to the State agency within specified timeframes.

General Areas: These areas include free and reduced price process, civil rights, school food authority on-site monitoring, reporting and recordkeeping, food safety, competitive food services, water, program outreach, resource management, and other areas identified by FNS.

7 CFR 210.18 (b) Definitions:

The following definitions are provided in alphabetical order in order to clarify State agency administrative review requirements:

Participation Factor: The percentages of children approved by the school for free meals, reduced price meals, and paid meals, respectively, who are participating in the Program. The free participation factor is derived by dividing the number of free lunches claimed for any given period by the product of the number of children approved for free lunches for the same period times the operating days in that period. A similar computation is used to determine the reduced price and paid participation factors. The number of children approved for paid meals is derived by subtracting the number of children approved for free and reduced-price meals for any given period from the total number of children enrolled in the reviewed school for the same period of time, if available. If such enrollment figures are not available, the most recent total number of children enrolled must be used. If school food authority participation factors are unavailable or unreliable, State-wide data must be employed.

Review period: The most recent month for which a Claim for Reimbursement was submitted, provided that it covers at least ten (10) operating days.

State Agency must in accordance
with 7 CFR Part 210:18(c)(d)(e)

(c) Determine Timing of Review

- > Every 3 years unless a waiver is in place
- > Follow up reviews must be conducted outside of this timing
(if significant or repeated critical or general violations exists)



(d) Develop and Maintain a Review Schedule

- > To ensure no intended overlap occurs



(e) Meet or exceed the number of schools to review

- (1) Minimum # of schools to review
- (2) Use the school selection criteria to ensure the minimum is met
- (3) Use this section to select the sites to review for other federal program reviews
- (4) May halt review process if **pervasive problems** are found - FNS may take over or refer to OIG
- (5) Noncompliance with meal pattern requirements

State Agency must in accordance
with 7 CFR Part 210:18(e)
Tables to use to meet the
minimum school selection criteria

National School Lunch Program: Table A

Number of schools in the school food authority	Minimum number of schools to review
1 to 5	1
6 to 10	2
11 to 20	3
21 to 40	4
41 to 60	6
61 to 80	8
81 to 100	10
101 or more	*12

* Twelve plus 5 percent of the number of schools over 100. Fractions must be rounded up (>0.5) or down (<0.5) to the nearest whole number.

Fresh Fruits and Vegetables Program: Table B

Number of schools selected for an NSLP administrative review that operate the FFVP	Minimum number of FFVP schools to be reviewed
0 to 5	1
6 to 10	2
11 to 20	3
21 to 40	4
41 to 60	6
61 to 80	8
81 to 100	10
101 or more	12*

* Twelve plus 5 percent of the number of schools over 100. Fractions must be rounded up (>0.5) or down (<0.5) to the nearest whole number.

Scope of Review

- The State agency must monitor compliance with the critical and general areas in paragraphs (g) and (h) of this section, respectively. State agencies may add additional review areas with FNS approval.

Review Forms

- State agencies must use the administrative review forms, tools and workbooks prescribed by FNS.

Timeframes

- (i) The timeframes covered by the administrative review includes the review period and the day of review, as defined in paragraph (b) of this section
- (ii) Subject to FNS approval, the State agency may conduct a review early in the school year, prior to the submission of a Claim for Reimbursement. In such cases, the review period must be the prior month of operation in the current school year, provided that such month includes at least 10 operating days.

Audit Findings

- To prevent duplication of effort, the State agency may use any recent and currently applicable findings from Federally-required audit activity or from any State-imposed audit requirements. Such findings may be used only insofar as they pertain to the reviewed school(s) or the overall operation of the school food authority and they are relevant to the review period. The State agency must document the source and the date of the audit.

7 CFR Part 210.18(g) Critical Areas of Review

The performance standards listed in this paragraph are directly linked to meal access and reimbursement, and to the meal pattern and nutritional quality of the reimbursable meals offered. These critical areas must be monitored by the State agency when conducting administrative reviews of the National School Lunch Program and the School Breakfast Program. Selected aspects of these critical areas must also be monitored, as applicable, when conducting administrative reviews of the National School Lunch Program's Afterschool Snacks and the Seamless Summer Option, and of the Special Milk Program

Performance Standard 1

Certification of
Benefits

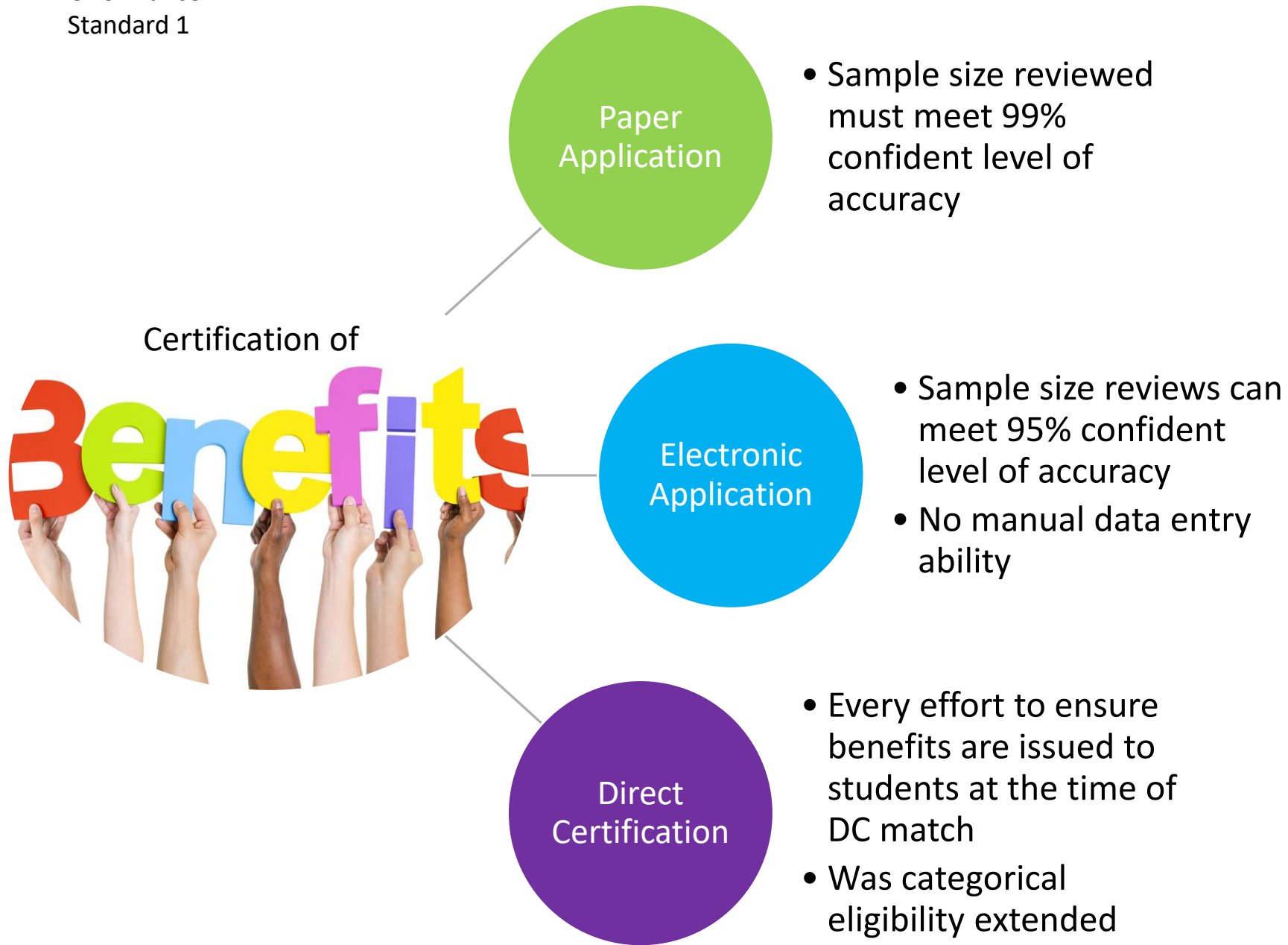
Meal Counting
and Claiming

Performance Standard 2

Food
components
and quantities

Dietary
specifications

Performance-
based cash
assistance





Daily meal
counts, by
type

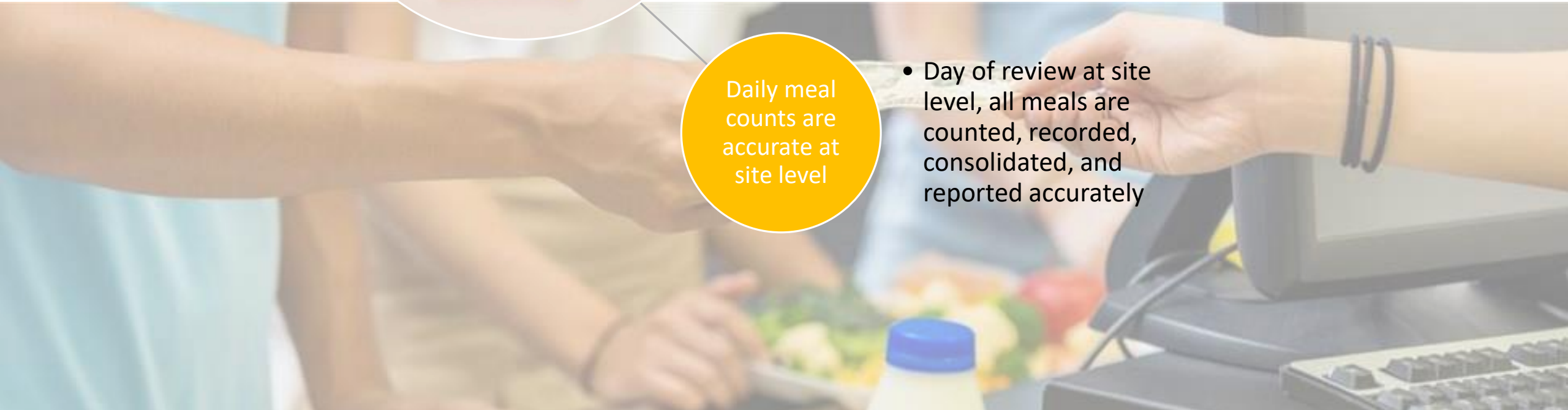
- Daily meal counts by type are more than the eligible students for the period of review and attendance factor

Meal counts
are recorded
at point of
service

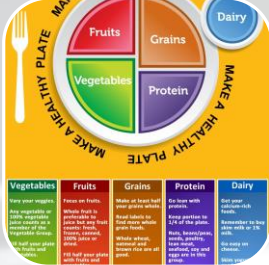
- Review use of POS
- Review alternate counting systems

Daily meal
counts are
accurate at
site level

- Day of review at site level, all meals are counted, recorded, consolidated, and reported accurately



Food Components and Quantities



Review menu and production records for a minimum school week



Day of review at site level observe a significant number of program meals at each serving line and compare with menu and production records



Observe whether students select at least three food components at lunch and at least three food items at breakfast, and both meal types include $\frac{1}{2}$ cup fruit or vegetable

Dietary
Specifications

- Meal compliance risk assessment
 - Additional targeted menu review for sites found to be at high risk for nutrition-related violations

Performance
Based cash
assistance

- Access meal service and lunches served to determine continued eligibility





7 CFR Part 210.18(h) **General Areas of Review**

The general areas listed in this paragraph reflect requirements that must be monitored by the State agency when conducting administrative reviews of the National School Lunch Program and the School Breakfast Program. Selected aspects of these general areas must also be monitored, as applicable and as specified in the *FNS Administrative Review Manual*, when conducting administrative reviews of the National School Lunch Program's Afterschool Snacks and Seamless Summer Option, the Fresh Fruit and Vegetable Program, and the Special Milk Program.

Resource Management

Maintenance
of the
nonprofit
school food
service
account

Paid Lunch
Equity

Revenue
from
nonprogram
foods

Indirect
Costs

General Program Compliance

Free & Reduced-Price Process

- F&R policy statement
- Verification Process
- Meal Count System
- Review at least 10 denied applications
- Second review of applications took place

Civil Rights

- No child is denied benefits or otherwise discriminated against in any of the programs reviewed under this section

SFA Onsite Monitoring

- Onsite reviews of each school under its jurisdiction
- Claims
- Observable general areas of review

Competitive Food Standards

- The State agency must ensure that the local educational agency and school food authority comply with the nutrition standards for competitive foods in §§ 210.11 and 220.12 of this chapter, and retain documentation demonstrating compliance with the competitive food service and standards.

Water

- Water is available and accessible to children at no cost

HANDBOOK

General Program Compliance continues...

Food Safety

- Food Safety requirements are being met

Reporting and Recordkeeping

- SFA maintain and submits reports in accordance with program requirements

Program Outreach

- SFA is conducting outreach activities to increase participation in:
 - SBP
 - SFSP

Professional Standards

- The State agency shall ensure the local educational agency and school food authority complies with the professional standards for school nutrition program directors, managers, and personnel established in § 210.30.

Local School Wellness

- The State agency shall ensure the local educational agency complies with the local school wellness requirements set forth in § 210.30.

HANDBOOK



Entrance/Exit Conference and Notifications

7 CFR Part 210.18(i)

- ❖ (1) Entrance Conference – With appropriate SFA staff and authorized representatives of the LEA
- ❖ (2) Exit Conference – Must be held to disclosed areas of concern and findings
- ❖ (3) Notifications – Must provide written notification of review findings to SFA's Superintendent (or equivalent) or authorized representative, preferably no later than 30 days from the exit conference of the review



Withholding Payment

7 CFR Part 210.18(k)

- ❖ (1) Cause for withholding:
 - i. Withhold all program payments to a SFA if documented corrective actions for critical area violations is not provided with the deadline specified
 - ii. Withhold all program payments to SFA if the state agency finds that the corrective action for critical area violations was not completed
 - iii. May withhold program payments to a SFA if critical area violation is a repeat violation
 - iv. General area violations – payments may be withheld at state agency discretion based on all of the above
- ❖ (2) Duration of withholding: In all cases, Program payments must be withheld until such time as corrective action is completed, documented corrective action is received and deemed acceptable by the State agency, or the State agency completes a follow-up review and confirms that the problem has been corrected.

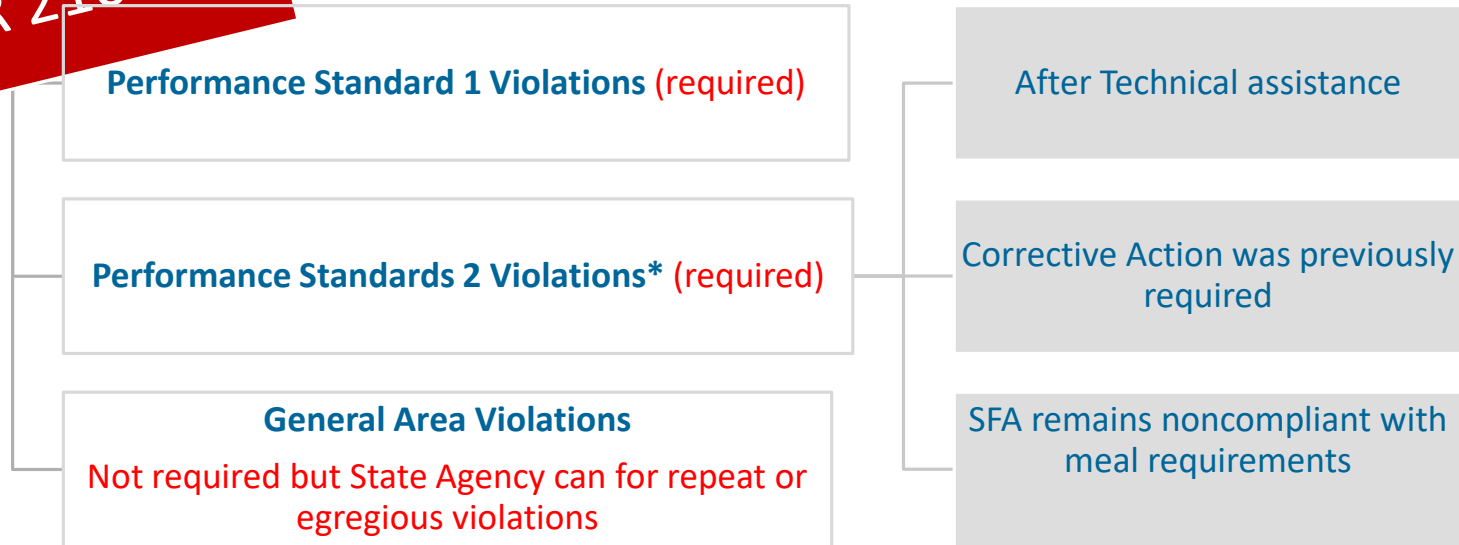


Withholding Payment continues...

7 CFR 210.18(k)

- ❖ (3) Exceptions (where State Agency determines it will be in the best interest of the Program):
 - Reduce the amount of withholding by 60%
 - With FNS approval limit withholding of funds to an amount less than 40%
- ❖ (4) Failure to withhold: In all cases, Program payments must be withheld until such time as corrective action is completed, documented corrective action is received and deemed acceptable by the State agency, or the State agency completes a follow-up review and confirms that the problem has been corrected.

Fiscal Action 7 CFR 210.18(l)



*For missing food components or missing production records, the State agency must apply fiscal action



Duration of Fiscal Action

7 CFR Part 210.18(l)(3)

❖ *Performance Standard 1 certification and benefit issuance violations*

- The total number of free and reduced-price meals claimed for the review period and the month of the on-site review must be adjusted to reflect the State calculated certification and benefit issuance adjustment factors.

❖ *Other Performance Standard 1 and Program Standard 2 violations*

- Correction actions occurred during the onsite review or after, the state agency is required to apply fiscal action from that point back through the beginning of the onsite review month and for the review period;
- If correction actions occurred during the review period, the state agency would be required to apply fiscal action from the point corrective action occurs back through the beginning of the review period; _____
- If correction action occurs prior to the review period, no fiscal action would be required, and
- If corrective action occurs in a claim month between the review period and the onsite review month, the state agency would apply fiscal only to the review period

Performance-based cash assistance

7 CFR Part 210.18(l)(4)

- In addition to fiscal action described in paragraphs (l)(2)(i) through (v) of this section, school food authorities found to be out of compliance with the meal patterns or nutrition standards set forth in § 210.10 may not earn performance-based cash assistance authorized under § 210.4(b)(1) unless immediate corrective action occurs. School food authorities will not be eligible for the performance-based reimbursement beginning the month immediately following the administrative review and, at State discretion, for the month of review. Performance-based cash assistance may resume beginning in the first full month the school food authority demonstrates to the satisfaction of the State agency that corrective action has taken place.
-

SFA appeal of state agency findings

7 CFR 210.18(p)

Except for FNS-conducted reviews authorized under [§ 210.29\(d\)\(2\)](#), each State agency shall establish an appeal procedure to be followed by a school food authority requesting a review of a denial of all or a part of the Claim for Reimbursement or withholding payment arising from administrative review activity conducted by the State agency under [§ 210.18](#).

State agencies may use their own appeal procedures provided the same procedures are applied to all appellants in the State and the procedures meet the following requirements: Appellants are assured of a fair and impartial hearing before an independent official at which they may be represented by legal counsel; decisions are rendered in a timely manner not to exceed 120 days from the date of the receipt of the request for review; appellants are afforded the right to either a review of the record with the right to file written information, or a hearing which they may attend in person; and adequate notice is given of the time, date, place and procedures of the hearing. If the State agency has not established its own appeal procedures or the procedures do not meet the above listed criteria, the State agency shall observe the following procedures at a minimum:

(1) The written request for a review shall be postmarked within 15 calendar days of the date the appellant received the notice of the denial of all or a part of the Claim for Reimbursement or withholding of payment,,,



(2) The appellant may refute the action specified in the notice in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official not later than 30 calendar days after the appellant received the notice.



(3) If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 10 calendar days advance written notice, sent by certified mail, or its equivalent, or sent electronically by email or facsimile, of the time, date and place of the hearing;



(4) Any information on which the State agency's action was based shall be available to the appellant for inspection from the date of receipt of the request for review;

SFA appeal of state agency findings
7 CFR 210.18(p)
Continues...

(5) The review official shall be an independent and impartial official



(6) The review official shall make a determination based on information provided by the State agency and the appellant, and on program regulations;



(7) Within 60 calendar days of the State agency's receipt of the request for review, by written notice, sent by certified mail, or its equivalent, or electronically by email or facsimile, the review official shall inform the State agency and the appellant of the determination of the review official. The final determination shall take effect upon receipt of the written notice of the final decision by the school food authority;



(8) The State agency's action shall remain in effect during the appeal process; and



(9) The determination by the State review official is the final administrative determination to be afforded to the appellant.)

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CARE CENTERS



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Resources:

[Monitoring Handbook for State Agencies](#)

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SUMMER



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Resources:

[Program monitoring and assistance](#)



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SCHOOLS

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Resources:

**FNS Administrative Review Guidance and
Tools**

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COMMUNITY



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