



**Georgia Dept  
of Early Care  
and Learning**

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Area Memo: General  
Information  
Programs CACFP, SFSP

## Initial Implementation Memorandum: Child Nutrition Program Integrity Final Rule

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### Purpose

This memorandum provides initial implementation guidance for the Child Nutrition Program Integrity Final Rule. The guidance relates to program-specific changes in the Child and Adult Care Food Program (CACFP), National School Lunch Program (NSLP), School Breakfast Program (SBP), and Summer Food Service Program (SFSP); and applies to State agencies administering and school food authorities (SFAs), institutions and sponsors implementing the NSLP, SBP, CACFP, and SFSP.

### Legal Authority

SP 21-2023, CACFP 10-2023, SFSP 12-2023

### Requirements

The Food and Nutrition Service (FNS) is committed to accomplishing its mission to provide access to food, a healthful diet, and nutrition education in ways that inspire public confidence. An important component of that mission is maintaining a strong and sustained effort to ensure program integrity is a priority in the administration of the Child Nutrition Programs. On August 23, 2023, FNS published the Child Nutrition Program Integrity final rule <https://www.federalregister.gov/documents/2023/08/23/2023-17992/child-nutrition-program-integrity>. This final rule aims to help FNS and State administering agencies reduce program errors of all types, resulting in more efficient operations and improved compliance with program requirements. This final rule also provides State agencies and program operators with targeted flexibilities, allowing oversight based on needs determined by the State agency.

The attached chart provides an overview of the provisions codified in the final rule. Included in the chart is the compliance date for each provision. This date is when State agencies must implement and come into compliance with the new provisions, though State agencies have the discretion to implement before the compliance date. FNS established compliance dates which enable State agencies and local operators ample time to prepare for Program changes. FNS is committed to providing State agencies with additional targeted

technical assistance on all final rule provisions for each affected program in the near future.

As a note, not all provisions proposed in the Child Nutrition Program Integrity rule have been codified in this final rule. Notably, the proposed reciprocal disqualification in all child nutrition programs, and the serious deficiency and disqualification process in SFSP and CACFP are not codified here. Instead, those provisions are included in the proposed Serious Deficiency Rule, which FNS expects to publish later this year. All provisions finalized as part of this rulemaking are included in the attached chart.

To view the Final Rule please visit the Federal Register: <https://www.federalregister.gov/documents/2023/08/23/2023-17992/child-nutrition-program-integrity>.

## Comments

For questions concerning this memorandum, please contact the Policy Administrator at (404) 651-8193.

### Integrity Rule Provision Changes by Program

#### Schools Program (NSLP and SBP) Provision Changes

##### Discretion in Taking Fiscal Action for Meal Pattern Violations

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
Current regulations at 7 CFR 210.18(l)(2) require State agencies to take fiscal action to recover Federal funds from SFAs for repeated violations of milk type and vegetable subgroup requirements.	Amends 7 CFR 210.18(l)(2) to give State agencies the discretion to take fiscal action against SFAs for repeated violations of milk type and vegetable subgroup requirements.	NEW Provision	September 22, 2023

##### Return to a 5-Year Review Cycle

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
Current regulations at 7 CFR 210.18(c) require State agencies to conduct a comprehensive administrative review of each SFA participating in NSLP and SBP at least once during a 3-year cycle.	Amends 7 CFR 210.18(c) and allows State agencies to implement a 5-year administrative review cycle, while targeting additional oversight to those SFAs at high risk.  Also amends 7 CFR 210.19(a)(5) to allow State agencies to conduct the Food Service Management Company (FSMC) review on a 5-year cycle to align with the administrative review cycle.  Does not make any changes to the oversight of FSMCs, including the requirement for State agencies to review each contract between an SFA and FSMC annually.  State agencies may continue with a shorter administrative review or FSMC review cycle if they wish to do so.	NEW Provision	July 1, 2024  Prior to the compliance date, State agencies may continue to apply for a waiver of the current Administrative Review cycle.

**Substitution of Local-Level Audits**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
Current regulations at 210.18(f)(3) allow State agencies to use any recent and currently applicable findings from Federally-required audit activity or from any State-imposed audit requirements.	In addition to findings from Federal and State audits, with prior FNS approval, State agencies may also use information from local-level audits to substitute for related parts of the administrative review. Requiring FNS approval will ensure that the local-level audit aligns with Federal audit standards.	NEW Provision	July 1, 2024

**Completion of Review Requirements Outside of the Administrative Review**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
Current regulations at 210.18(f) require the State agency to monitor compliance with the critical and general areas of review as specified in the regulations.	Allows State agencies, with FNS approval, to omit specific, redundant areas of the administrative review when sufficient oversight is conducted outside of the administrative review. State agencies that want to do this must submit a plan, for FNS approval, that describes the State agency's specific oversight activities and the critical or general areas of review that would be replaced. State agencies must submit updates or additions to their plan for FNS approval.	NEW Provision	July 1, 2024

**Framework for Integrity Focused Process Improvements**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
N/A	<p>Amends 210.18(f)-(h) to allow State agencies to omit designated areas of review, in part or entirely, where a State agency or SFA has implemented FNS-specified error reduction strategies or utilized FNS-specified monitoring efficiencies.</p> <p>FNS will develop guidance and a series of FNS-approved optional process reforms that respond to the latest findings from USDA research, independent audits, and FNS analysis of administrative data that State agencies and SFAs may adopt.</p>	NEW Provision	September 22, 2023

**Assessment of Resource Management Risk**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
<p>Current regulations at 210.18(h)(1) require the State agency to conduct an off-site assessment of the school food authority's nonprofit school food service to evaluate the risk of noncompliance with resource management requirements.</p>	<p>The final rule removes the requirement that the risk assessment be conducted off-site, instead allowing State agencies to conduct the assessment of an SFA's nonprofit school food service account at any point in the review process.</p>	NEW Provision	September 22, 2023

**Buy American Area of Review**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
N/A	The final rule adds compliance with the Buy American requirements to the General Areas of the Administrative Review. This final rule also makes a corresponding technical change to the definition of "General areas" under 7 CFR 210.18(b).	NEW Provision	September 22, 2023

**School Food Authority Contracts with Food Service Management Companies**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
Current regulations at 210.19(a)(5) use the word shall, to require State agencies to annually review each contract (including all supporting documentation) between any school food authority and food service management company to ensure compliance with all regulations before execution of the contract by either party.	<p>Current regulations are retained with minor technical changes as follows:</p> <p>Amends 7 CFR 210.2 and 220.2 to add definitions of fixed-price contract in NSLP and SBP.</p> <p>Amends 7 CFR 210.19(a)(5) to clarify that State agencies must review and approve each contract and contract amendment between any SFA and FSMC, for consistency with 7 CFR 210.16(a)(10).</p> <p>Note: This rule does not finalize the proposed requirement allowing only fixed price contracts with FSMCs. Cost Reimbursable contracts remain allowable.</p>	No Substantive Change	August 23, 2024

**Annual NSLP Procurement Training**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
N/A	<p>Requires State directors of school nutrition programs, State directors of distributing agencies, and school nutrition program directors, management, and staff who work on NSLP procurement activities to complete procurement training annually.</p> <p>Adds new paragraphs at 7 CFR 210.21(h), 210.30(g)(3), and 235.11(h)(3).</p> <p>Amends 7 CFR 210.30 and 235.11 to clarify that NSLP procurement training is subject to professional standards monitoring and recordkeeping requirements and may count towards the professional standards training requirements.</p> <p>This requirement only applies to State directors and school nutrition program directors, management, and staff who work on NSLP procurement activities.</p>	NEW Provision	August 23, 2024

**Performance Based Reimbursement Reporting**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
Requires State agencies to submit to FNS a quarterly report detailing the total number of SFAs in the State and the names of SFAs that are certified to receive the statutorily established 8-cents performance-based reimbursement.	Amends 7 CFR 210.5(d) to reduce the performance-based reimbursement reporting requirement from quarterly to annually. This rulemaking moves the performance-based reimbursement report from the quarterly report under paragraph (d)(2) to the end-of-the-year report.	NEW Provision	<p>September 22, 2023</p> <p>First annual report will be due October 30, 2024</p>

## CACFP Provision Changes

### State Agency Review Requirements in CACFP

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
<p>Current regulations at 7 CFR 226.6(m)(6) require State agencies to annually review at least a third (33.3 percent) of all institutions participating in the CACFP in each State. Independent centers must be reviewed at least once every 3 years. Sponsoring organizations with up to 100 facilities must also be reviewed at least once every 3 years. Sponsoring organizations with more than 100 facilities must be reviewed at least once every 2 years. New sponsoring organizations with five or more facilities must be reviewed within the first 90 days of operation.</p>	<p>Maintains all current review requirements and amends 7 CFR 226.6(m)(6) to add the following additional criteria for the State agency to use in scheduling reviews at least once every 2 years:</p> <ul style="list-style-type: none"> <li>• Institutions that engage in activities other than CACFP, and</li> <li>• Institutions that have had serious management problems in previous reviews or are at risk of having serious management problems.</li> </ul> <p>The rule characterizes serious management problems as the types of administrative weaknesses that affect an institution's ability to meet CACFP performance standards—financial viability, administrative capability, and accountability.</p>	NEW Provision	August 23, 2024

### State Liability for Payments to Aggrieved Child Care Institutions

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
<p>Current regulations at 7 CFR 226.6(k) require the State agency must acknowledge an institution's request for an administrative review (appeal) within 10 days of its receipt of the request. Within 60 days of the State agency's receipt of the request, the administrative review official must inform the State agency, the institution's executive director, chair of the board of directors, responsible principals, and responsible individuals of the administrative review's outcome. During this period, all valid claims for reimbursement must be paid to the institution and the facilities of the institution, unless there is an allegation of fraud or a serious health or safety violation against the institution. The claims are paid from Federal funds.</p>	<p>Consistent with statute, this final rule requires State agencies to provide fair and timely hearings through the serious deficiency process. It also requires a State agency to pay all valid claims for reimbursement, from non-Federal sources, if the 60-day timeframe for the fair hearing is not met.</p> <p>Amends 7 CFR 226.6(k) to establish State liability for payments to aggrieved child care institutions. Specifically, a State agency must pay all valid claims with non-Federal funds if the State agency fails to meet the required timeframes for providing a fair hearing and a prompt determination, unless FNS grants an exception.</p>	NEW Provision	August 23, 2024



**CACFP Audit Funding**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
<p>Section 17(i)(2)(B) of the NSLA, 42 U.S.C. 1766(i)(2)(B), allows additional funding to State agencies to conduct audits. The Secretary may increase the amount of funds to any State agency that demonstrates that it can effectively use the funds to improve program management, under criteria established by the Secretary.</p> <p>Additionally, FNS issued CACFP 10-2016, <a href="#">CACFP Audit Funds Amount: Additional Funds Availability</a>, to provide guidance to State agencies for requesting additional funding for conducting audits of institutions participating in the CACFP and to establish the processes and criteria by which requests will be approved.</p>	<p>Codifies previously implemented statutory authority that allows FNS to increase the amount of State audit funds if a State agency demonstrates that it can effectively use the funds to improve program management.</p> <p>Amends 7 CFR 226.4(j) to allow additional CACFP audit funds for State agencies.</p> <p>FNS now considers requests to increase audit funding from 1.5 percent to a cumulative maximum of 2 percent of CACFP funds used by the State agency during the second preceding fiscal year for the purpose of conducting program audits.</p> <p>The additional funds must be used to meet program oversight and audit requirements under 7 CFR 226.6(m) and 226.8, respectively, or to improve program management under criteria established by the Secretary.</p>	<p>Previously Implemented</p>	<p>September 22, 2023</p>

**Financial Review of Sponsoring Organizations in CACFP**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
<p>Current regulations at 7 CFR 226.7(g) require State agencies to review and approve budgets for sponsoring organizations of centers to ensure that CACFP funds are used only for allowable expenses. The portion of the administrative costs to be charged to CACFP must not exceed 15 percent of the meal reimbursements estimated to be earned during the budget year unless a waiver is granted.</p>	<p>Amends 7 CFR 226.7(b) to also require the State agency to have procedures in place for annually reviewing at least 1 month of the sponsoring organization's bank account activity against other associated records to verify that the financial transactions meet program requirements.</p> <p>The State agency must also have procedures for annually reviewing a sponsoring organization's actual expenditures of CACFP funds and the amount of meal reimbursement funds retained from unaffiliated centers to support the sponsoring organization's administrative costs.</p> <p>The State agency must reconcile reported expenditures with program payments to ensure that funds are accounted for fully. Makes a corresponding change to 7 CFR 226.10(c) to require sponsoring organizations of unaffiliated centers to annually make available to the State agency the amount of program expenditures of program funds and the amount of meal reimbursement funds retained from their centers for administrative costs.</p>	<p>NEW Provision</p>	<p>August 23, 2024</p>



Informal Purchase Methods for CACFP

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
<p>Current practices allow CACFP institutions to use the micro-purchase method for transactions in which the aggregate cost of the items purchased does not exceed \$10,000, the current Federal threshold. Institutions may use the small purchase method for purchases below the Federal simplified acquisition threshold, currently set at \$250,000. States and local agencies may specify lower micro-purchase and simplified acquisition thresholds, and local agencies may set a higher micro-purchase thresholds in line with <a href="#">2 CFR part 200.320(a)(1)(iv-v)</a>.</p>	<p>Makes technical changes to 7 CFR 226.21(a) to remove outdated language so that the values of the Federal micro-purchase threshold and Federal simplified acquisition threshold are linked to <a href="#">2 CFR part 200</a>.</p> <p>This final rule also makes technical changes to remove outdated and duplicative provisions of 7 CFR 226.22 and affirm that procurements by public or private non-profit institutions comply with the appropriate requirements under <a href="#">2 CFR part 200</a>.</p>	<p>No Substantive Change</p>	<p>August 23, 2024</p>

Elimination of the Annual Application for Institutions

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
<p>FNS issued CACFP 19-2011, <a href="#">Child Nutrition Reauthorization 2010: Child and Adult Care Food Program Applications</a>, on April 8, 2011, to provide guidance regarding the requirements from the Healthy, Hunger-Free Kids Act of 2010 that renewing institutions must submit an annual certification of information, updated licensing information, and a budget.</p>	<p>As required by statute, this action amends 7 CFR 226.2, and 226.6(b) to require an initial application for new institutions and annual updates, as needed, for renewing institutions. A corresponding change is made at 7 CFR 226.6(f). This provision has been a standard operating practice for State agencies since 2011.</p>	<p>Previously Implemented</p>	<p>September 22, 2023</p>

Timing of Unannounced Reviews

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
FNS issued CACFP 16-2011, <a href="#">Child Nutrition Reauthorization 2010: Varied Timing of Unannounced Reviews in the Child and Adult Care Food Program</a> , on April 7, 2011, to advise State agencies of the new statutory requirement under HHFKA to ensure that the timing of unannounced reviews is varied in a way that would ensure they are unpredictable to the day care home or sponsored center.	<p>Amends 226.16(d)(4)(iii) to require sponsoring organizations to vary the timing of unannounced reviews and vary the type of meal service subject to review.</p> <p>A corresponding change is made at 7 CFR 226.6(m)(3)(ix) to require the State agency to assess the timing of each sponsoring organization's reviews of day care homes and sponsored centers.</p> <p>This provision has been a standard operating practice for sponsoring organizations and State agencies since 2011.</p>	Previously Implemented	September 22, 2023

Standard Agreements Between Sponsoring Organizations and Sponsored Child Care Centers

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
Current regulations at 7 CFR 226.6(p) require the sponsoring organization to enter into a written permanent agreement with each sponsored day care home, which specifies the rights and responsibilities of both parties. However, there is no standard form of agreement and no requirement that sponsoring organizations establish agreements with sponsored centers.	<p>Amends 7 CFR 226.6(p) and 226.17a(f) and adds new paragraphs at 226.17(e) and (f), 226.19(d) and (e), and 226.19a(d) and (e) to require sponsoring organizations to enter into permanent agreements with their <b>unaffiliated centers</b>.</p> <p>New definitions of "Facility" and "Sponsored center" are added under 7 CFR 226.2. This provision is a standard operating practice for sponsoring organizations.</p>	NEW Provision	September 22, 2023

Collection and Transmission of Household Income Information

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
<p>FNS issued CACFP 17-2011, <a href="#">Child Nutrition Reauthorization 2010: Transmission of Household Income Information by Tier II Family Day Care Homes in the Child and Adult Care Food Program</a>, on April 7, 2011.</p> <p>This guidance describes how tier II family day care home providers may participate in the collection and transmission of household information. The guidance also outlines the options and privacy protections available to households. FNS included these options in the CACFP proposed rule for the public to review and comment on. FNS did not receive any substantive comments on this provision.</p>	<p>Adds a new paragraph at 7 CFR 226.18(b)(13) to add the right of the tier II day care home to assist in collecting and transmitting applications to the sponsoring organizations and prohibit the provider from reviewing applications from households.</p> <p>Also adds a new paragraph at 7 CFR 226.23(e)(1)(vii) to address household consent and actions to protect the privacy of a household's income information. This provision has been a standard operating practice for sponsoring organizations of day care homes since 2011.</p>	<p>Previously Implemented</p>	<p>September 22, 2023</p>

Calculation of Administrative Funding for Sponsoring Organizations of Day Care Homes

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
<p>FNS issued CACFP 06-2011, <a href="#">Child Nutrition Reauthorization 2010: Administrative Payments to Family Day Care Home Sponsoring Organizations</a>, on December 22, 2010, to advise State agencies that a simpler method for determining monthly administrative payments had been established by HHFKA.</p> <p>Effective October 1, 2010, the sponsoring organization's monthly payment were based on the statutory formula and no longer require a comparison with actual expenditures or budgeted administrative costs.</p>	<p>Amends 7 CFR 226.12(a) to simplify the calculation of monthly administrative reimbursement that sponsoring organizations of day care homes are eligible to receive. To determine the amount of payment, the State agency must multiply the appropriate administrative reimbursement rate, which is announced annually in the Federal Register, by the number of day care homes submitting claims for reimbursement during the month. This provision has been a standard operating practice for State agencies since 2010.</p>	<p>Previously Implemented</p>	<p>September 22, 2023</p>

**Carryover of Administrative Funding for Sponsoring Organizations of Day Care Homes**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
<p>FNS issued a memorandum, CACFP 18-2011 <a href="#">Child Nutrition Reauthorization 2010: Carry Over of Unused Child and Adult Care Food Program Administrative Payments</a>, on April 8, 2011. FNS advised State agencies of the option available to sponsoring organizations of day care homes to carry over up to 10 percent of unspent administrative reimbursement from the current Federal fiscal year to the next fiscal year.</p> <p>FNS issued additional guidance, CACFP 11-2012, <a href="#">Family Day Care Home Administrative Reimbursements: Options and Carryover Reporting Requirements</a>, on March 19, 2012, and CACFP 24-2012: REVISED, <a href="#">Family Day Care Home Administrative Reimbursements: Carryover Reporting Requirements for Fiscal Year 2012 and All Subsequent Years</a>, on September 5, 2012. These memoranda provided clarification of options regarding administrative reimbursements and the management of unspent funds that may be carried over from the current Federal fiscal year to the next fiscal year. They also described procedures for reporting administrative funds under a 2-year period of performance.</p>	<p>Amends 7 CFR 226.6(f)(1)(iv) and adds new paragraphs at 226.7(g)(2) and 226.12(a)(3) to allow carryover of administrative funds with State agency approval.</p> <p>Also amends 7 CFR 226.7(j) and adds a new paragraph 226.12(a)(4) to require the State agency to establish procedures to recover administrative funds from sponsoring organizations of day care homes that are not properly payable, are in excess of the 10 percent maximum carryover amount, or any carryover amounts not expended or obligated by the end of the fiscal year following the fiscal year in which they were earned.</p>	Previously Implemented	September 22, 2023

**Provisions Affecting NSLP, SBP, CACFP, and SFSP**

**Fines For Violating Program Requirements**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
N/A	<p>Consistent with statute, adds provisions to each of the CN Program regulations to allow the assessment of fines for State agencies and SFAs who operate any CN program, but only under <b>exceptional (rare)</b> circumstances, which could include failure to correct severe program mismanagement; disregard of a program requirement of which an SFA or State agency has been informed; or failure to correct repeated violations of program requirements.</p> <p>Adds paragraphs to identify maximum thresholds for first, second, and subsequent fines at 7 CFR 210.26(b)(3), 215.15(b)(3), 220.18(b)(3), 225.18(k)(3), 226.25(j)(3), and 235.11(c)(2), and makes conforming changes to 210.18(p).</p>	NEW Provision	August 23, 2024

**Miscellaneous Amendments**

**State Administrative Expense Funds (SAE)**

Current Regulations/Guidance	Final Rule Provision/What's Changed	NEW Provision or Previously Implemented Through Guidance	Compliance Date
SAE regulations at 235.5(e)(2) require State agencies to return to FNS any unexpended SAE funds at the end of the fiscal year following the fiscal year for which the funds are awarded.	Requires State agencies to return any unobligated SAE funds to FNS.	NEW Provision	September 22, 2023

