

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-448 effective Oct. 1, 1994, see section 401 of Pub. L. 103-448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective July 1, 1981, see section 820(a)(2) of Pub. L. 97-35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-166, §19, Nov. 10, 1977, 91 Stat. 1345, provided that the amendment made by that section is effective July 1, 1977.

§ 1757. State disbursement to schools**(a) Disbursement by State educational agency**

Funds paid to any State during any fiscal year pursuant to section 1753 of this title shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary, as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school lunch program.

(b) Permanent, amendable agreements

The agreements described in subsection (a) of this section shall be permanent agreements that may be amended as necessary.

(c) Suspension or termination of agreements

The State educational agency may suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

(d) Use of funds

Use of funds paid to States may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing or handling thereof.

(e) Limitation

In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school lunch program under this chapter during such year by the maximum per meal reimbursement rate for the State, for the type of lunch served, as prescribed by the Secretary.

(f) Increase in meal reimbursement

In any fiscal year in which the national average payment per lunch determined under section 1753 of this title is increased above the amount prescribed in the previous fiscal year, the maximum per meal reimbursement rate, for the type of lunch served, shall be increased by a like amount.

(g) In advance or as reimbursement

Lunch assistance disbursements to schools under this section and under section 1759a of this title may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(June 4, 1946, ch. 281, §8, 60 Stat. 232; Pub. L. 92-433, §8, Sept. 26, 1972, 86 Stat. 729; Pub. L. 93-150, §2(b), Nov. 7, 1973, 87 Stat. 560; Pub. L.

95-166, §3, Nov. 10, 1977, 91 Stat. 1332; Pub. L. 95-627, §10(d)(1), Nov. 10, 1978, 92 Stat. 3624; Pub. L. 97-35, title VIII, §819(d), Aug. 13, 1981, 95 Stat. 533; Pub. L. 101-147, title II, §201, title III, §§304, 312(1), Nov. 10, 1989, 103 Stat. 908, 914, 916; Pub. L. 104-193, title VII, §701(a), Aug. 22, 1996, 110 Stat. 2287.)

AMENDMENTS

1996—Pub. L. 104-193 designated first and second sentences as subsections (a) and (b), respectively, substituted “in subsection (a) of this section” for “in the preceding sentence” in subsec. (b), designated third sentence as subsec. (c) and substituted “The State educational agency may” for “Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to”, struck out fourth and fifth sentences, designated sixth sentence as subsec. (d) and substituted “Use of funds paid to States” for “Such food costs”, and designated seventh to ninth sentences as subsections (e) to (g), respectively. Prior to amendment, fourth and fifth sentences read as follows: “Such disbursement to any school shall be made only for the purpose of assisting it to obtain agricultural commodities and other foods for consumption by children in the school lunch program. The terms ‘child’ and ‘children’ as used in this chapter shall be deemed to include individuals regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to have 1 or more mental or physical handicaps and who are attending any child care institution as defined in section 1766 of this title or any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for individuals with mental or physical handicaps: *Provided*, That no institution that is not otherwise eligible to participate in the program under section 1766 of this title shall be deemed so eligible because of this sentence.”

1989—Pub. L. 101-147, §312(1), substituted “school lunch” for “school-lunch” in three places.

Pub. L. 101-147, §304, which directed the amendment of subsec. (d) by substituting “individuals” for “persons”, “to have 1 or more mental or physical handicaps” for “to be mentally or physically handicapped”, and “for individuals with mental or physical handicaps” for “for mentally or physically handicapped”, was executed by making the substitutions in the undesignated text before the proviso as the probable intent of Congress because the section contains no subsection designations.

Pub. L. 101-147, §201, inserted after first sentence “The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.”

1981—Pub. L. 97-35 substituted references to per meal reimbursement rate, for references to Federal food-cost contribution rate wherever appearing, and struck out reference to section 1754 of this title, and food service equipment assistance.

1978—Pub. L. 95-627 inserted provision relating to definition of “child” and “children”.

1977—Pub. L. 95-166 substituted “food service equipment assistance” for “nonfood assistance”.

1973—Pub. L. 93-150 provided that in any fiscal year in which the national average payment per lunch determined under section 1753 of this title is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount.

1972—Pub. L. 92-433 substituted provision that disbursement to schools be made for the purpose of assisting them to finance the costs of agricultural commod-

ities, for provision that such disbursement be made for the purpose of reimbursing them for such costs and inserted provision that lunch assistance disbursements to schools under this section and section 1759a of this title may be made in advance or by way of reimbursement according to procedure prescribed by the Secretary.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97-35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-627 effective Oct. 1, 1978, see section 14 of Pub. L. 95-627, set out as a note under section 1755 of this title.

§ 1758. Program requirements

(a) Nutritional requirements

(1)(A) Lunches served by schools participating in the school lunch program under this chapter shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research, except that the minimum nutritional requirements—

(i) shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students; and

(ii) shall, at a minimum, be based on the weekly average of the nutrient content of school lunches.

(B) The Secretary shall provide technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school lunch program under this chapter, to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.

(2) FLUID MILK.—

(A) IN GENERAL.—Lunches served by schools participating in the school lunch program under this chapter—

(i) shall offer students a variety of fluid milk. Such milk shall be consistent with the most recent Dietary Guidelines for Americans published under section 5341 of title 7;

(ii) may offer students flavored and unflavored fluid milk and lactose-free fluid milk; and

(iii) shall provide a substitute for fluid milk for students whose disability restricts their diet, on receipt of a written statement from a licensed physician that identifies the disability that restricts the student's diet and that specifies the substitute for fluid milk.

(B) SUBSTITUTES.—

(i) STANDARDS FOR SUBSTITUTION.—A school may substitute for the fluid milk provided under subparagraph (A), a nondairy beverage that is nutritionally equivalent to fluid milk and meets nutritional standards established by the Secretary (which shall,

among other requirements to be determined by the Secretary, include fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk) for students who cannot consume fluid milk because of a medical or other special dietary need other than a disability described in subparagraph (A)(iii).

(ii) NOTICE.—The substitutions may be made if the school notifies the State agency that the school is implementing a variation allowed under this subparagraph, and if the substitution is requested by written statement of a medical authority or by a student's parent or legal guardian that identifies the medical or other special dietary need that restricts the student's diet, except that the school shall not be required to provide beverages other than beverages the school has identified as acceptable substitutes.

(iii) EXCESS EXPENSES BORNE BY SCHOOL FOOD AUTHORITY.—Expenses incurred in providing substitutions under this subparagraph that are in excess of expenses covered by reimbursements under this chapter shall be paid by the school food authority.

(C) RESTRICTIONS ON SALE OF MILK PROHIBITED.—A school that participates in the school lunch program under this chapter shall not directly or indirectly restrict the sale or marketing of fluid milk products by the school (or by a person approved by the school) at any time or any place—

(i) on the school premises; or

(ii) at any school-sponsored event.

(3) Students in senior high schools that participate in the school lunch program under this chapter (and, when approved by the local school district or nonprofit private schools, students in any other grade level) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this chapter to any such school for such lunch.

(4) PROVISION OF INFORMATION.—

(A) GUIDANCE.—Prior to the beginning of the school year beginning July 2004, the Secretary shall issue guidance to States and school food authorities to increase the consumption of foods and food ingredients that are recommended for increased serving consumption in the most recent Dietary Guidelines for Americans published under section 5341 of title 7.

(B) RULES.—Not later than 2 years after June 30, 2004, the Secretary shall promulgate rules, based on the most recent Dietary Guidelines for Americans, that reflect specific recommendations, expressed in serving recommendations, for increased consumption of foods and food ingredients offered in school nutrition programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(C) PROCUREMENT AND PROCESSING OF FOOD SERVICE PRODUCTS AND COMMODITIES.—The Secretary shall—