

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—

(i) identify, develop, and disseminate to State departments of agriculture and education, school food authorities, local educational agencies, and local processing entities, model product specifications and practices for foods offered in school nutrition programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to ensure that the foods reflect the most recent Dietary Guidelines for Americans published under section 5341 of title 7;

(ii) not later than 1 year after December 13, 2010—

(I) carry out a study to analyze the quantity and quality of nutritional information available to school food authorities about food service products and commodities; and

(II) submit to Congress a report on the results of the study that contains such legislative recommendations as the Secretary considers necessary to ensure that school food authorities have access to the nutritional information needed for menu planning and compliance assessments; and

(iii) to the maximum extent practicable, in purchasing and processing commodities for use in school nutrition programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), purchase the widest variety of healthful foods that reflect the most recent Dietary Guidelines for Americans.

(5) **WATER.**—Schools participating in the school lunch program under this chapter shall make available to children free of charge, as nutritionally appropriate, potable water for consumption in the place where meals are served during meal service.

**(b) Eligibility**

(1)(A) Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size income levels contained in the non-farm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The income guidelines for determining eligibility for reduced price lunches for any school year shall be 185 percent of the applicable family size income levels contained in the non-farm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The Office of Management and Budget guidelines shall be revised at annual intervals, or at any shorter interval deemed feasible and desirable.

(B) The revision required by subparagraph (A) of this paragraph shall be made by multiplying—

(i) the official poverty line (as defined by the Office of Management and Budget); by

(ii) the percentage change in the Consumer Price Index during the annual or other inter-

val immediately preceding the time at which the adjustment is made.

Revisions under this subparagraph shall be made not more than 30 days after the date on which the consumer price index data required to compute the adjustment becomes available.

(2)(A) Following the determination by the Secretary under paragraph (1) of this subsection of the income eligibility guidelines for each school year, each State educational agency shall announce the income eligibility guidelines, by family size, to be used by schools in the State in making determinations of eligibility for free and reduced price lunches. Local school authorities shall, each year, publicly announce the income eligibility guidelines for free and reduced price lunches on or before the opening of school.

**(B) APPLICATIONS AND DESCRIPTIVE MATERIAL.—**

(i) **IN GENERAL.**—Applications for free and reduced price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, shall be distributed to the parents or guardians of children in attendance at the school, and shall contain only the family size income levels for reduced price meal eligibility with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced price lunches.

(ii) **INCOME ELIGIBILITY GUIDELINES.**—Forms and descriptive material distributed in accordance with clause (i) may not contain the income eligibility guidelines for free lunches.

**(iii) CONTENTS OF DESCRIPTIVE MATERIAL.—**

(I) **IN GENERAL.**—Descriptive material distributed in accordance with clause (i) shall contain a notification that—

(aa) participants in the programs listed in subclause (II) may be eligible for free or reduced price meals; and

(bb) documentation may be requested for verification of eligibility for free or reduced price meals.

(II) **PROGRAMS.**—The programs referred to in subclause (I)(aa) are—

(aa) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

(bb) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(cc) the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)); and

(dd) a State program funded under the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

**(3) HOUSEHOLD APPLICATIONS.—**

(A) **DEFINITION OF HOUSEHOLD APPLICATION.**—In this paragraph, the term “household application” means an application for a child of a household to receive free or reduced price school lunches under this chapter, or free or reduced price school breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et

seq.), for which an eligibility determination is made other than under paragraph (4) or (5).

(B) ELIGIBILITY DETERMINATION.—

(i) IN GENERAL.—An eligibility determination shall be made on the basis of a complete household application executed by an adult member of the household or in accordance with guidance issued by the Secretary.

(ii) ELECTRONIC SIGNATURES AND APPLICATIONS.—A household application may be executed using an electronic signature if—

(I) the application is submitted electronically; and

(II) the electronic application filing system meets confidentiality standards established by the Secretary.

(C) CHILDREN IN HOUSEHOLD.—

(i) IN GENERAL.—The household application shall identify the names of each child in the household for whom meal benefits are requested.

(ii) SEPARATE APPLICATIONS.—A State educational agency or local educational agency may not request a separate application for each child in the household that attends schools under the same local educational agency.

(D) VERIFICATION OF SAMPLE.—

(i) DEFINITIONS.—In this subparagraph:

(I) ERROR PRONE APPLICATION.—The term “error prone application” means an approved household application that—

(aa) indicates monthly income that is within \$100, or an annual income that is within \$1,200, of the income eligibility limitation for free or reduced price meals; or

(bb) in lieu of the criteria established under item (aa), meets criteria established by the Secretary.

(II) NON-RESPONSE RATE.—The term “non-response rate” means (in accordance with guidelines established by the Secretary) the percentage of approved household applications for which verification information has not been obtained by a local educational agency after attempted verification under subparagraphs (F) and (G).

(ii) VERIFICATION OF SAMPLE.—Each school year, a local educational agency shall verify eligibility of the children in a sample of household applications approved for the school year by the local educational agency, as determined by the Secretary in accordance with this subsection.

(iii) SAMPLE SIZE.—Except as otherwise provided in this paragraph, the sample for a local educational agency for a school year shall equal the lesser of—

(I) 3 percent of all applications approved by the local educational agency for the school year, as of October 1 of the school year, selected from error prone applications; or

(II) 3,000 error prone applications approved by the local educational agency for the school year, as of October 1 of the school year.

(iv) ALTERNATIVE SAMPLE SIZE.—

(I) IN GENERAL.—If the conditions described in subclause (IV) are met, the verification sample size for a local educational agency shall be the sample size described in subclause (II) or (III), as determined by the local educational agency.

(II) 3,000/3 PERCENT OPTION.—The sample size described in this subclause shall be the lesser of 3,000, or 3 percent of, applications selected at random from applications approved by the local educational agency for the school year, as of October 1 of the school year.

(III) 1,000/1 PERCENT PLUS OPTION.—

(aa) IN GENERAL.—The sample size described in this subclause shall be the sum of—

(AA) the lesser of 1,000, or 1 percent of, all applications approved by the local educational agency for the school year, as of October 1 of the school year, selected from error prone applications; and

(BB) the lesser of 500, or ½ of 1 percent of, applications approved by the local educational agency for the school year, as of October 1 of the school year, that provide a case number (in lieu of income information) showing participation in a program described in item (bb) selected from those approved applications that provide a case number (in lieu of income information) verifying the participation.

(bb) PROGRAMS.—The programs described in this item are—

(AA) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(BB) the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)); and

(CC) a State program funded under the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.

(IV) CONDITIONS.—The conditions referred to in subclause (I) shall be met for a local educational agency for a school year if—

(aa) the nonresponse rate for the local educational agency for the preceding school year is less than 20 percent; or

(bb) the local educational agency has more than 20,000 children approved by application by the local educational agency as eligible for free or reduced price meals for the school year, as of October 1 of the school year, and—

(AA) the nonresponse rate for the preceding school year is at least 10 percent below the nonresponse rate for the second preceding school year; or

(BB) in the case of the school year beginning July 2005, the local educational agency attempts to verify all approved household applications selected for verification through use of public agency records from at least 2 of the programs or sources of information described in subparagraph (F)(i).

(v) ADDITIONAL SELECTED APPLICATIONS.—A sample for a local educational agency for a school year under clauses (iii) and (iv)(III)(AA) shall include the number of additional randomly selected approved household applications that are required to comply with the sample size requirements in those clauses.

(E) PRELIMINARY REVIEW.—

(i) REVIEW FOR ACCURACY.—

(I) IN GENERAL.—Prior to conducting any other verification activity for approved household applications selected for verification, the local educational agency shall ensure that the initial eligibility determination for each approved household application is reviewed for accuracy by an individual other than the individual making the initial eligibility determination, unless otherwise determined by the Secretary.

(II) WAIVER.—The requirements of subclause (I) shall be waived for a local educational agency if the local educational agency is using a technology-based solution that demonstrates a high level of accuracy, to the satisfaction of the Secretary, in processing an initial eligibility determination in accordance with the income eligibility guidelines of the school lunch program.

(ii) CORRECT ELIGIBILITY DETERMINATION.—If the review indicates that the initial eligibility determination is correct, the local educational agency shall verify the approved household application.

(iii) INCORRECT ELIGIBILITY DETERMINATION.—If the review indicates that the initial eligibility determination is incorrect, the local educational agency shall (as determined by the Secretary)—

(I) correct the eligibility status of the household;

(II) notify the household of the change;

(III) in any case in which the review indicates that the household is not eligible for free or reduced-price meals, notify the household of the reason for the ineligibility and that the household may reapply with income documentation for free or reduced-price meals; and

(IV) in any case in which the review indicates that the household is eligible for free or reduced-price meals, verify the approved household application.

(F) DIRECT VERIFICATION.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), to verify eligibility for free or reduced

price meals for approved household applications selected for verification, the local educational agency may (in accordance with criteria established by the Secretary) first obtain and use income and program participation information from a public agency administering—

(I) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(II) the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b));

(III) the temporary assistance for needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(IV) the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

(V) a similar income-tested program or other source of information, as determined by the Secretary.

(ii) FREE MEALS.—Public agency records that may be obtained and used under clause (i) to verify eligibility for free meals for approved household applications selected for verification shall include the most recent available information (other than information reflecting program participation or income before the 180-day period ending on the date of application for free meals) that is relied on to administer—

(I) a program or source of information described in clause (i) (other than clause (i)(IV)); or

(II) the State plan for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in—

(aa) a State in which the income eligibility limit applied under section 1902(l)(2)(C) of that Act (42 U.S.C. 1396a(l)(2)(C)) is not more than 133 percent of the official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)); or

(bb) a State that otherwise identifies households that have income that is not more than 133 percent of the official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)).

(iii) REDUCED PRICE MEALS.—Public agency records that may be obtained and used under clause (i) to verify eligibility for reduced price meals for approved household applications selected for verification shall include the most recent available information (other than information reflecting program participation or income before the 180-day period ending on the date of application for reduced price meals) that is relied on to administer—

(I) a program or source of information described in clause (i) (other than clause (i)(IV)); or

(II) the State plan for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in—

(aa) a State in which the income eligibility limit applied under section

1902(l)(2)(C) of that Act (42 U.S.C. 1396a(l)(2)(C)) is not more than 185 percent of the official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)); or

(bb) a State that otherwise identifies households that have income that is not more than 185 percent of the official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)).

(iv) EVALUATION.—Not later than 3 years after June 30, 2004, the Secretary shall complete an evaluation of—

(I) the effectiveness of direct verification carried out under this subparagraph in decreasing the portion of the verification sample that must be verified under subparagraph (G) while ensuring that adequate verification information is obtained; and

(II) the feasibility of direct verification by State agencies and local educational agencies.

(v) EXPANDED USE OF DIRECT VERIFICATION.—If the Secretary determines that direct verification significantly decreases the portion of the verification sample that must be verified under subparagraph (G), while ensuring that adequate verification information is obtained, and can be conducted by most State agencies and local educational agencies, the Secretary may require a State agency or local educational agency to implement direct verification through 1 or more of the programs described in clause (i), as determined by the Secretary, unless the State agency or local educational agency demonstrates (under criteria established by the Secretary) that the State agency or local educational agency lacks the capacity to conduct, or is unable to implement, direct verification.

(G) HOUSEHOLD VERIFICATION.—

(i) IN GENERAL.—If an approved household application is not verified through the use of public agency records, a local educational agency shall provide to the household written notice that—

(I) the approved household application has been selected for verification; and

(II) the household is required to submit verification information to confirm eligibility for free or reduced price meals.

(ii) PHONE NUMBER.—The written notice in clause (i) shall include a toll-free phone number that parents and legal guardians in households selected for verification can call for assistance with the verification process.

(iii) FOLLOWUP ACTIVITIES.—If a household does not respond to a verification request, a local educational agency shall make at least 1 attempt to obtain the necessary verification from the household in accordance with guidelines and regulations promulgated by the Secretary.

(iv) CONTRACT AUTHORITY FOR SCHOOL FOOD AUTHORITIES.—A local educational agency may contract (under standards established by the Secretary) with a third party to as-

sist the local educational agency in carrying out clause (iii).

(H) VERIFICATION DEADLINE.—

(i) GENERAL DEADLINE.—

(I) IN GENERAL.—Subject to subclause (II), not later than November 15 of each school year, a local educational agency shall complete the verification activities required for the school year (including followup activities).

(II) EXTENSION.—Under criteria established by the Secretary, a State may extend the deadline established under subclause (I) for a school year for a local educational agency to December 15 of the school year.

(ii) ELIGIBILITY CHANGES.—Based on the verification activities, the local educational agency shall make appropriate modifications to the eligibility determinations made for household applications in accordance with criteria established by the Secretary.

(I) LOCAL CONDITIONS.—In the case of a natural disaster, civil disorder, strike, or other local condition (as determined by the Secretary), the Secretary may substitute alternatives for—

(i) the sample size and sample selection criteria established under subparagraph (D); and

(ii) the verification deadline established under subparagraph (H).

(J) INDIVIDUAL REVIEW.—In accordance with criteria established by the Secretary, the local educational agency may, on individual review—

(i) decline to verify no more than 5 percent of approved household applications selected under subparagraph (D); and

(ii) replace the approved household applications with other approved household applications to be verified.

(K) FEASIBILITY STUDY.—

(i) IN GENERAL.—The Secretary shall conduct a study of the feasibility of using computer technology (including data mining) to reduce—

(I) overcertification errors in the school lunch program under this chapter;

(II) waste, fraud, and abuse in connection with this paragraph; and

(III) errors, waste, fraud, and abuse in other nutrition programs, as determined to be appropriate by the Secretary.

(ii) REPORT.—Not later than 180 days after June 30, 2004, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing—

(I) the results of the feasibility study conducted under this subsection;

(II) how a computer system using technology described in clause (i) could be implemented;

(III) a plan for implementation; and

(IV) proposed legislation, if necessary, to implement the system.

(4) DIRECT CERTIFICATION FOR CHILDREN IN SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM HOUSEHOLDS.—

(A) IN GENERAL.—Subject to subparagraph (D), each State agency shall enter into an agreement with the State agency conducting eligibility determinations for the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(B) PROCEDURES.—Subject to paragraph (6), the agreement shall establish procedures under which a child who is a member of a household receiving assistance under the supplemental nutrition assistance program shall be certified as eligible for free lunches under this chapter and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application.

(C) CERTIFICATION.—Subject to paragraph (6), under the agreement, the local educational agency conducting eligibility determinations for a school lunch program under this chapter and a school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall certify a child who is a member of a household receiving assistance under the supplemental nutrition assistance program as eligible for free lunches under this chapter and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application.

(D) APPLICABILITY.—This paragraph applies to—

(i) in the case of the school year beginning July 2006, a school district that had an enrollment of 25,000 students or more in the preceding school year;

(ii) in the case of the school year beginning July 2007, a school district that had an enrollment of 10,000 students or more in the preceding school year; and

(iii) in the case of the school year beginning July 2008 and each subsequent school year, each local educational agency.

(E) PERFORMANCE AWARDS.—

(i) IN GENERAL.—Effective for each of the school years beginning July 1, 2011, July 1, 2012, and July 1, 2013, the Secretary shall offer performance awards to States to encourage the States to ensure that all children eligible for direct certification under this paragraph are certified in accordance with this paragraph.

(ii) REQUIREMENTS.—For each school year described in clause (i), the Secretary shall—

(I) consider State data from the prior school year, including estimates contained in the report required under section 1758a of this title; and

(II) make performance awards to not more than 15 States that demonstrate, as determined by the Secretary—

(aa) outstanding performance; and  
(bb) substantial improvement.

(iii) USE OF FUNDS.—A State agency that receives a performance award under clause (i)—

(I) shall treat the funds as program income; and

(II) may transfer the funds to school food authorities for use in carrying out the program.

(iv) FUNDING.—

(I) IN GENERAL.—On October 1, 2011, and each subsequent October 1 through October 1, 2013, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary—

(aa) \$2,000,000 to carry out clause

(ii)(II)(aa); and

(bb) \$2,000,000 to carry out clause

(ii)(II)(bb).

(II) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this clause the funds transferred under subclause (I), without further appropriation.

(v) PAYMENTS NOT SUBJECT TO JUDICIAL REVIEW.—A determination by the Secretary whether, and in what amount, to make a performance award under this subparagraph shall not be subject to administrative or judicial review.

(F) CONTINUOUS IMPROVEMENT PLANS.—

(i) DEFINITION OF REQUIRED PERCENTAGE.—In this subparagraph, the term “required percentage” means—

(I) for the school year beginning July 1, 2011, 80 percent;

(II) for the school year beginning July 1, 2012, 90 percent; and

(III) for the school year beginning July 1, 2013, and each school year thereafter, 95 percent.

(ii) REQUIREMENTS.—Each school year, the Secretary shall—

(I) identify, using data from the prior year, including estimates contained in the report required under section 1758a of this title, States that directly certify less than the required percentage of the total number of children in the State who are eligible for direct certification under this paragraph;

(II) require the States identified under subclause (I) to implement a continuous improvement plan to fully meet the requirements of this paragraph, which shall include a plan to improve direct certification for the following school year; and

(III) assist the States identified under subclause (I) to develop and implement a continuous improvement plan in accordance with subclause (II).

(iii) FAILURE TO MEET PERFORMANCE STANDARD.—

(I) IN GENERAL.—A State that is required to develop and implement a continuous improvement plan under clause (ii)(II) shall be required to submit the continuous improvement plan to the Secretary, for the approval of the Secretary.

(II) REQUIREMENTS.—At a minimum, a continuous improvement plan under subclause (I) shall include—

(aa) specific measures that the State will use to identify more children who

are eligible for direct certification, including improvements or modifications to technology, information systems, or databases;

(bb) a timeline for the State to implement those measures; and

(cc) goals for the State to improve direct certification results.

(G) WITHOUT FURTHER APPLICATION.—

(i) IN GENERAL.—In this paragraph, the term “without further application” means that no action is required by the household of the child.

(ii) CLARIFICATION.—A requirement that a household return a letter notifying the household of eligibility for direct certification or eligibility for free school meals does not meet the requirements of clause (i).

(5) DISCRETIONARY CERTIFICATION.—Subject to paragraph (6), any local educational agency may certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the status of the child as—

(A) a member of a family that is receiving assistance under the temporary assistance for needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995;

(B) a homeless child or youth (defined as 1 of the individuals described in section 11434a(2) of this title);

(C) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.);

(D) a migratory child (as defined in section 6399 of title 20); or

(E)(i) a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act [42 U.S.C. 620 et seq., 670 et seq.]; or

(ii) a foster child who a court has placed with a caretaker household.

(6) USE OR DISCLOSURE OF INFORMATION.—

(A) IN GENERAL.—The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in paragraph (3)(F), (4), or (5), shall be limited to—

(i) a person directly connected with the administration or enforcement of this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (including a regulation promulgated under either this chapter or that Act);

(ii) a person directly connected with the administration or enforcement of—

(I) a Federal education program;

(II) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)); or

(III) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the school lunch program under this chapter;

(iii)(I) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

(II) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by this paragraph or paragraph (3)(F), (4), or (5);

(iv) a person directly connected with the administration of the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or the State children's health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.) solely for the purposes of—

(I) identifying children eligible for benefits under, and enrolling children in, those programs, except that this subclause shall apply only to the extent that the State and the local educational agency or school food authority so elect; and

(II) verifying the eligibility of children for programs under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(v) a third party contractor described in paragraph (3)(G)(iv).

(B) LIMITATION ON INFORMATION PROVIDED.—Information provided under clause (ii) or (v) of subparagraph (A) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits is made or for whom eligibility information is provided under paragraph (3)(F), (4), or (5), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

(C) CRIMINAL PENALTY.—A person described in subparagraph (A) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

(D) REQUIREMENTS FOR WAIVER OF CONFIDENTIALITY.—A State that elects to exercise the option described in subparagraph (A)(iv)(I) shall ensure that any local educational agency or school food authority acting in accordance with that option—

(i) has a written agreement with 1 or more State or local agencies administering health programs for children under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.) that requires the health agencies to use the information obtained under subparagraph (A) to seek to enroll children in those health programs; and

(ii)(I) notifies each household, the information of which shall be disclosed under subparagraph (A), that the information disclosed will be used only to enroll children in health programs referred to in subparagraph (A)(iv); and

(II) provides each parent or guardian of a child in the household with an opportunity to elect not to have the information disclosed.

(E) USE OF DISCLOSED INFORMATION.—A person to which information is disclosed under subparagraph (A)(iv)(I) shall use or disclose the information only as necessary for the purpose of enrolling children in health programs referred to in subparagraph (A)(iv).

(7) FREE AND REDUCED PRICE POLICY STATEMENT.—

(A) IN GENERAL.—After the initial submission, a local educational agency shall not be required to submit a free and reduced price policy statement to a State educational agency under this chapter unless there is a substantive change in the free and reduced price policy of the local educational agency.

(B) ROUTINE CHANGE.—A routine change in the policy of a local educational agency (such as an annual adjustment of the income eligibility guidelines for free and reduced price meals) shall not be sufficient cause for requiring the local educational agency to submit a policy statement.

(8) COMMUNICATIONS.—

(A) IN GENERAL.—Any communication with a household under this subsection or subsection (d) of this section shall be in an understandable and uniform format and, to the maximum extent practicable, in a language that parents and legal guardians can understand.

(B) ELECTRONIC AVAILABILITY.—In addition to the distribution of applications and descriptive material in paper form as provided for in this paragraph, the applications and material may be made available electronically via the Internet.

(9) ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES.—

(A) FREE LUNCHES.—Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch.

(B) REDUCED PRICE LUNCHES.—

(i) IN GENERAL.—Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate greater than the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but less than or equal to the applicable family size income level of the income eligibility guidelines for reduced price lunches, as determined under paragraph (1), shall be served a reduced price lunch.

(ii) MAXIMUM PRICE.—The price charged for a reduced price lunch shall not exceed 40 cents.

(C) DURATION.—Except as otherwise specified in paragraph (3)(E), (3)(H)(ii), and section 1759a(a) of this title, eligibility for free or reduced price meals for any school year shall remain in effect—

(i) beginning on the date of eligibility approval for the current school year; and

(ii) ending on a date during the subsequent school year determined by the Secretary.

(10) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this subsection shall be made by the school nor shall there by<sup>1</sup> any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means.

(11) Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local educational agencies shall publicly announce that such children are eligible for a free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

(12)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is—

(i) a member of a household receiving assistance under the supplemental nutrition assistance program authorized under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(ii) a member of a family (under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995;

(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B));

(iv) a homeless child or youth (defined as 1 of the individuals described in section 11434a(2) of this title);

(v) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.);

<sup>1</sup> So in original. Probably should be "be".



(vi) a migratory child (as defined in section 6399 of title 20); or

(vii)(I) a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act [42 U.S.C. 620 et seq., 670 et seq.]; or

(II) a foster child who a court has placed with a caretaker household.

(B) Proof of receipt of supplemental nutrition assistance program benefits or assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii), shall be sufficient to satisfy any verification requirement imposed under this subsection.

(13) EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.—The amount of a basic allowance provided under section 403 of title 37 on behalf of a member of a uniformed service for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, or any related provision of law, shall not be considered to be income for the purpose of determining the eligibility of a child who is a member of the household of the member of a uniformed service for free or reduced price lunches under this chapter.

(14) COMBAT PAY.—

(A) DEFINITION OF COMBAT PAY.—In this paragraph, the term “combat pay” means any additional payment under chapter 5 of title 37, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

(i) is the result of deployment to or service in a combat zone; and

(ii) was not received immediately prior to serving in a combat zone.

(B) EXCLUSION.—Combat pay shall not be considered to be income for the purpose of determining the eligibility for free or reduced price meals of a child who is a member of the household of a member of the United States Armed Forces.

(15) DIRECT CERTIFICATION FOR CHILDREN RECEIVING MEDICAID BENEFITS.—

(A) DEFINITIONS.—In this paragraph:

(i) ELIGIBLE CHILD.—The term “eligible child” means a child—

(I)(aa) who is eligible for and receiving medical assistance under the Medicaid program; and

(bb) who is a member of a family with an income as measured by the Medicaid program before the application of any expense, block, or other income disregard, that does not exceed 133 percent of the poverty line (as defined in section 9902(2) of this title, including any revision required by such section) applicable to a family of the size used for purposes of deter-

mining eligibility for the Medicaid program; or

(II) who is a member of a household (as that term is defined in section 245.2 of title 7, Code of Federal Regulations (or successor regulations)<sup>2</sup> with a child described in subclause (I).

(ii) MEDICAID PROGRAM.—The term “Medicaid program” means the program of medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(B) DEMONSTRATION PROJECT.—

(i) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service and in cooperation with selected State agencies, shall conduct a demonstration project in selected local educational agencies to determine whether direct certification of eligible children is an effective method of certifying children for free lunches and breakfasts under subsection (b)(1)(A) and section 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)(A)).

(ii) SCOPE OF PROJECT.—The Secretary shall carry out the demonstration project under this subparagraph—

(I) for the school year beginning July 1, 2012, in selected local educational agencies that collectively serve 2.5 percent of students certified for free and reduced price meals nationwide, based on the most recent available data;

(II) for the school year beginning July 1, 2013, in selected local educational agencies that collectively serve 5 percent of students certified for free and reduced price meals nationwide, based on the most recent available data; and

(III) for the school year beginning July 1, 2014, and each subsequent school year, in selected local educational agencies that collectively serve 10 percent of students certified for free and reduced price meals nationwide, based on the most recent available data.

(iii) PURPOSES OF THE PROJECT.—At a minimum, the purposes of the demonstration project shall be—

(I) to determine the potential of direct certification with the Medicaid program to reach children who are eligible for free meals but not certified to receive the meals;

(II) to determine the potential of direct certification with the Medicaid program to directly certify children who are enrolled for free meals based on a household application; and

(III) to provide an estimate of the effect on Federal costs and on participation in the school lunch program under this chapter and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) of direct certification with the Medicaid program.

(iv) COST ESTIMATE.—For each of 2 school years of the demonstration project, the Sec-

<sup>2</sup>So in original. Another closing parenthesis probably should appear.

retary shall estimate the cost of the direct certification of eligible children for free school meals through data derived from—

- (I) the school meal programs authorized under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);
- (II) the Medicaid program; and
- (III) interviews with a statistically representative sample of households.

(C) AGREEMENT.—

(i) IN GENERAL.—Not later than July 1 of the first school year during which a State agency will participate in the demonstration project, the State agency shall enter into an agreement with the 1 or more State agencies conducting eligibility determinations for the Medicaid program.

(ii) WITHOUT FURTHER APPLICATION.—Subject to paragraph (6), the agreement described in subparagraph (D) shall establish procedures under which an eligible child shall be certified for free lunches under this chapter and free breakfasts under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), without further application (as defined in paragraph (4)(G)).

(D) CERTIFICATION.—For the school year beginning on July 1, 2012, and each subsequent school year, subject to paragraph (6), the local educational agencies participating in the demonstration project shall certify an eligible child as eligible for free lunches under this chapter and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application (as defined in paragraph (4)(G)).

(E) SITE SELECTION.—

(i) IN GENERAL.—To be eligible to participate in the demonstration project under this subsection, a State agency shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(ii) CONSIDERATIONS.—In selecting States and local educational agencies for participation in the demonstration project, the Secretary may take into consideration such factors as the Secretary considers to be appropriate, which may include—

- (I) the rate of direct certification;
- (II) the share of individuals who are eligible for benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) who participate in the program, as determined by the Secretary;
- (III) the income eligibility limit for the Medicaid program;
- (IV) the feasibility of matching data between local educational agencies and the Medicaid program;
- (V) the socioeconomic profile of the State or local educational agencies; and
- (VI) the willingness of the State and local educational agencies to comply with the requirements of the demonstration project.

(F) ACCESS TO DATA.—For purposes of conducting the demonstration project under this paragraph, the Secretary shall have access to—

(i) educational and other records of State and local educational and other agencies and institutions receiving funding or providing benefits for 1 or more programs authorized under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(ii) income and program participation information from public agencies administering the Medicaid program.

(G) REPORT TO CONGRESS.—

(i) IN GENERAL.—Not later than October 1, 2014, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, an interim report that describes the results of the demonstration project required under this paragraph.

(ii) FINAL REPORT.—Not later than October 1, 2015, the Secretary shall submit a final report to the committees described in clause (i).

(H) FUNDING.—

(i) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out subparagraph (G) \$5,000,000, to remain available until expended.

(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out subparagraph (G) the funds transferred under clause (i), without further appropriation.

**(c) Operation on nonprofit basis; donation of agricultural commodities**

School lunch programs under this chapter shall be operated on a nonprofit basis. Commodities purchased under the authority of section 612c of title 7, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under this chapter as well as to other schools carrying out nonprofit school lunch programs and institutions authorized to receive such commodities. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any provision of law.

**(d) Social Security numbers and other documentation required as condition of eligibility**

(1) The Secretary shall require as a condition of eligibility for receipt of free or reduced price lunches that the member of the household who executes the application furnish the last 4 digits of the social security account number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary.

(2) No member of a household may be provided a free or reduced price lunch under this chapter unless—

- (A) appropriate documentation relating to the income of such household (as prescribed by the Secretary) has been provided to the appro-

priate local educational agency so that the local educational agency may calculate the total income of such household;

(B) documentation showing that the household is participating in the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.] has been provided to the appropriate local educational agency;

(C) documentation has been provided to the appropriate local educational agency showing that the family is receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995;

(D) documentation has been provided to the appropriate local educational agency showing that the child meets the criteria specified in clauses (iv) or (v) of subsection (b)(12)(A) of this section;

(E) documentation has been provided to the appropriate local educational agency showing the status of the child as a migratory child (as defined in section 6399 of title 20);

(F)(i) documentation has been provided to the appropriate local educational agency showing the status of the child as a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act [42 U.S.C. 620 et seq., 670 et seq.]; or

(ii) documentation has been provided to the appropriate local educational agency showing the status of the child as a foster child who a court has placed with a caretaker household; or

(G) documentation has been provided to the appropriate local educational agency showing the status of the child as an eligible child (as defined in subsection (b)(15)(A)).

**(e) Limitation on meal contracting**

A school or school food authority participating in a program under this chapter may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced price, and full-price reimbursable meals to all eligible children.

**(f) Nutritional requirements**

(1) **IN GENERAL.**—Schools that are participating in the school lunch program or school breakfast program shall serve lunches and breakfasts that—

(A) are consistent with the goals of the most recent Dietary Guidelines for Americans published under section 5341 of title 7; and

(B) consider the nutrient needs of children who may be at risk for inadequate food intake and food insecurity.

(2) To assist schools in meeting the requirements of this subsection, the Secretary—

(A) shall—

(i) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

(ii) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and food-based menu systems; and

(B) may provide to schools information regarding other approaches, as determined by the Secretary.

(3) **USE OF ANY REASONABLE APPROACH.**—

(A) **IN GENERAL.**—A school food service authority may use any reasonable approach, within guidelines established by the Secretary in a timely manner, to meet the requirements of this subsection, including—

(i) using the school nutrition meal pattern in effect for the 1994–1995 school year; and

(ii) using any of the approaches described in paragraph (3).

(B) **NUTRIENT ANALYSIS.**—The Secretary may not require a school to conduct or use a nutrient analysis to meet the requirements of this subsection.

(4) **WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.**—During the period ending on September 30, 2010, the Secretary shall not require the use of weighted averages for nutrient analysis of menu items and foods offered or served as part of a meal offered or served under the school lunch program under this chapter or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

**(g) Justification of production records; paperwork reduction**

Not later than 1 year after November 2, 1994, the Secretary shall provide a notification to Congress that justifies the need for production records required under section 210.10(b) of title 7, Code of Federal Regulations, and describes how the Secretary has reduced paperwork relating to the school lunch and school breakfast programs.

**(h) Food safety**

**(1) In general**

A school participating in the school lunch program under this chapter or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall—

(A) at least twice during each school year, obtain a food safety inspection conducted by a State or local governmental agency responsible for food safety inspections;

(B) post in a publicly visible location a report on the most recent inspection conducted under subparagraph (A); and

(C) on request, provide a copy of the report to a member of the public.

**(2) State and local government inspections**

Nothing in paragraph (1) prevents any State or local government from adopting or enforcing any requirement for more frequent food safety inspections of schools.

**(3) Audits and reports by States**

For each of fiscal years 2011 through 2015, each State shall annually—

(A) audit food safety inspections of schools conducted under paragraphs (1) and (2); and

(B) submit to the Secretary a report of the results of the audit.

**(4) Audit by the Secretary**

For each of fiscal years 2011 through 2015, the Secretary shall annually audit State reports of food safety inspections of schools submitted under paragraph (3).

**(5) School food safety program****(A) In general**

Each school food authority shall implement a school food safety program, in the preparation and service of each meal served to children, that complies with any hazard analysis and critical control point system established by the Secretary.

**(B) Applicability**

Subparagraph (A) shall apply to any facility or part of a facility in which food is stored, prepared, or served for the purposes of the school nutrition programs under this chapter or section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

**(i) Single permanent agreement between State agency and school food authority; common claims form****(1) In general**

If a single State agency administers any combination of the school lunch program under this chapter, the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the summer food service program for children under section 1761 of this title, or the child and adult care food program under section 1766 of this title, the agency shall—

(A) require each school food authority to submit to the State agency a single agreement with respect to the operation by the authority of the programs administered by the State agency; and

(B) use a common claims form with respect to meals and supplements served under the programs administered by the State agency.

**(2) Additional requirement**

The agreement described in paragraph (1)(A) shall be a permanent agreement that may be amended as necessary.

**(j) Purchases of locally produced foods**

The Secretary shall—

(1) encourage institutions receiving funds under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to purchase unprocessed agricultural products, both locally grown and locally raised, to the maximum extent practicable and appropriate;

(2) advise institutions participating in a program described in paragraph (1) of the policy described in that paragraph and paragraph (3) and post information concerning the policy on the website maintained by the Secretary; and

(3) allow institutions receiving funds under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), including the Department of Defense Fresh Fruit and Vegetable Program, to use a geographic preference for the procurement of unprocessed agricultural products, both locally grown and locally raised.

**(k) Information on the school nutrition environment****(1) In general**

The Secretary shall—

(A) establish requirements for local educational agencies participating in the school lunch program under this chapter and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to report information about the school nutrition environment, for all schools under the jurisdiction of the local educational agencies, to the Secretary and to the public in the State on a periodic basis; and

(B) provide training and technical assistance to States and local educational agencies on the assessment and reporting of the school nutrition environment, including the use of any assessment materials developed by the Secretary.

**(2) Requirements**

In establishing the requirements for reporting on the school nutrition environment under paragraph (1), the Secretary shall—

(A) include information pertaining to food safety inspections, local wellness policies, meal program participation, the nutritional quality of program meals, and other information as determined by the Secretary; and

(B) ensure that information is made available to the public by local educational agencies in an accessible, easily understood manner in accordance with guidelines established by the Secretary.

**(3) Authorization of appropriations**

There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2011 through 2015.

**(l) Food donation program****(1) In general**

Each school and local educational agency participating in the school lunch program under this chapter may donate any food not consumed under such program to eligible local food banks or charitable organizations.

**(2) Guidance****(A) In general**

Not later than 180 days after November 18, 2011, the Secretary shall develop and publish guidance to schools and local educational agencies participating in the school lunch program under this chapter to assist such schools and local educational agencies in donating food under this subsection.

**(B) Updates**

The Secretary shall update such guidance as necessary.

**(3) Liability**

Any school or local educational agency making donations pursuant to this subsection shall be exempt from civil and criminal liability to the extent provided under section 1791 of this title.

**(4) Definition**

In this subsection, the term “eligible local food banks or charitable organizations” means

any food bank or charitable organization which is exempt from tax under section 501(c)(3) of title 26.

(June 4, 1946, ch. 281, § 9, 60 Stat. 233; Pub. L. 90-302, § 2(b), May 8, 1968, 82 Stat. 117; Pub. L. 91-248, § 6(a), (b), (d), (e), May 14, 1970, 84 Stat. 210; Pub. L. 92-153, § 5, Nov. 5, 1971, 85 Stat. 420; Pub. L. 92-433, § 5, Sept. 26, 1972, 86 Stat. 726; Pub. L. 93-150, § 9, Nov. 7, 1973, 87 Stat. 564; Pub. L. 93-326, § 4, June 30, 1974, 88 Stat. 286; Pub. L. 94-105, § 6, Oct. 7, 1975, 89 Stat. 512; Pub. L. 95-166, § 8, Nov. 10, 1977, 91 Stat. 1335; Pub. L. 95-627, § 8, Nov. 10, 1978, 92 Stat. 3622; Pub. L. 97-35, title VIII, §§ 803(a), (b), 811, Aug. 13, 1981, 95 Stat. 524, 525, 529; Pub. L. 99-500, title III, §§ 322-324, Oct. 18, 1986, 100 Stat. 1783-361, and Pub. L. 99-591, title III, §§ 322-324, Oct. 30, 1986, 100 Stat. 3341-364; Pub. L. 99-661, div. D, title II, §§ 4202-4204, Nov. 14, 1986, 100 Stat. 4072; Pub. L. 100-356, § 1, June 28, 1988, 102 Stat. 669; Pub. L. 101-147, title I, § 101, title II, § 202(a)(1), (2)(A), (b), title III, §§ 305, 312(1), (2), Nov. 10, 1989, 103 Stat. 878, 908, 914, 916; Pub. L. 103-448, title I, §§ 105(a), 106-109(a), 110, Nov. 2, 1994, 108 Stat. 4701-4705; Pub. L. 104-149, § 2, May 29, 1996, 110 Stat. 1379; Pub. L. 104-193, title I, § 109(g), title VII, §§ 702, 703, Aug. 22, 1996, 110 Stat. 2170, 2288, 2289; Pub. L. 105-336, title I, § 102, Oct. 31, 1998, 112 Stat. 3144; Pub. L. 106-224, title II, § 242(a), June 20, 2000, 114 Stat. 411; Pub. L. 107-171, title IV, §§ 4302(a), 4303, May 13, 2002, 116 Stat. 330, 331; Pub. L. 108-134, § 1, Nov. 22, 2003, 117 Stat. 1389; Pub. L. 108-211, § 1, Mar. 31, 2004, 118 Stat. 566; Pub. L. 108-265, title I, §§ 102-104(b)(1), (d)(1), (2), 105(a), 106-108(a), 109-112, June 30, 2004, 118 Stat. 731-734, 737, 738, 745-747; Pub. L. 108-447, div. A, title VII, § 788(a), Dec. 8, 2004, 118 Stat. 2851; Pub. L. 110-134, § 29(c)(1), Dec. 12, 2007, 121 Stat. 1449; Pub. L. 110-234, title IV, §§ 4002(b)(1)(A), (B), (E), (2)(Z), 4302, May 22, 2008, 122 Stat. 1095-1097, 1125; Pub. L. 110-246, § 4(a), title IV, §§ 4002(b)(1)(A), (B), (E), (2)(Z), 4302, June 18, 2008, 122 Stat. 1664, 1857, 1859, 1887; Pub. L. 111-80, title VII, §§ 734(a), 749(b), (c), Oct. 21, 2009, 123 Stat. 2125, 2131; Pub. L. 111-296, title I, §§ 101-103(b), title II, §§ 202, 203, 209, 242, title III, §§ 301, 302, title IV, §§ 402, 441(a)(1), Dec. 13, 2010, 124 Stat. 3185-3191, 3216, 3222, 3236, 3240, 3259, 3261; Pub. L. 112-55, div. A, title VII, § 734, Nov. 18, 2011, 125 Stat. 587.)

#### REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in text, is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts A, B, and E of title IV, title XIX, and title XXI of the Act are classified generally to parts A (§601 et seq.), B (§620 et seq.), and E (§670 et seq.) of subchapter IV, subchapter XIX (§1396 et seq.), and subchapter XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Runaway and Homeless Youth Act, referred to in subsec. (b)(5)(C), (12)(A)(v), is title III of Pub. L. 93-415,

Sept. 7, 1974, 88 Stat. 1129, which is classified generally to subchapter III (§5701 et seq.) of chapter 72 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of this title and Tables.

The Head Start Act, referred to in subsec. (b)(12)(A)(iii), is subchapter B (§§635-657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

#### AMENDMENTS

2011—Subsec. (l). Pub. L. 112-55 added subsec. (l).

2010—Subsec. (a)(2)(A)(i). Pub. L. 111-296, § 202, added cl. (i) and struck out former cl. (i) which read as follows: “shall offer students fluid milk in a variety of fat contents;”.

Subsec. (a)(4)(C). Pub. L. 111-296, § 242, added subpar. (C).

Subsec. (a)(5). Pub. L. 111-296, § 203, added par. (5).

Subsec. (b)(4). Pub. L. 111-296, § 101(a)(1), substituted “supplemental nutrition assistance program” for “food stamp” in heading.

Subsec. (b)(4)(E). Pub. L. 111-296, § 101(a)(2), added subpar. (E).

Subsec. (b)(4)(F). Pub. L. 111-296, § 101(b), added subpar. (F).

Subsec. (b)(4)(G). Pub. L. 111-296, § 101(c), added subpar. (G).

Subsec. (b)(5)(E). Pub. L. 111-296, § 102(a), added subpar. (E).

Subsec. (b)(12)(A)(iv). Pub. L. 111-296, § 102(b)(1), inserted closing parenthesis before semicolon at end.

Subsec. (b)(12)(A)(vii). Pub. L. 111-296, § 102(b)(2)-(4), added cl. (vii).

Subsec. (b)(15). Pub. L. 111-296, § 103(a), added par. (15).

Subsec. (d)(1). Pub. L. 111-296, § 301, inserted “the last 4 digits of” before “the social security account number” in first sentence and struck out second sentence which read as follows: “The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(3)(G) of this section.”

Subsec. (d)(2)(F). Pub. L. 111-296, § 102(c), added subpar. (F).

Subsec. (d)(2)(G). Pub. L. 111-296, § 103(b), added subpar. (G).

Subsec. (f). Pub. L. 111-296, § 441(a)(1), inserted subsec. heading, added par. (1), redesignated former pars. (3) to (5) as (2) to (4), respectively, and struck out former pars. (1) and (2) which related to nutritional requirements and grants of waivers from such requirements by State educational agencies.

Subsec. (h)(3). Pub. L. 111-296, § 402(1), substituted “2011 through 2015” for “2006 through 2010” in introductory provisions.

Subsec. (h)(4). Pub. L. 111-296, § 402(2), substituted “2011 through 2015” for “2006 through 2010”.

Subsec. (h)(5). Pub. L. 111-296, § 302, designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (k). Pub. L. 111-296, § 209, added subsec. (k).

2009—Subsec. (b)(14). Pub. L. 111-80, § 734(a), added par. (14).

Subsec. (f)(5). Pub. L. 111-80, § 749(b), substituted “2010” for “2009”.

Subsec. (h)(3), (4). Pub. L. 111-80, § 749(c), substituted “2010” for “2009”.

2008—Subsec. (b)(2)-(4). Pub. L. 110-246, § 4002(b)(1)(A), (B), (2)(Z), substituted “supplemental nutrition assist-

ance program” for “food stamp program” wherever appearing and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977” wherever appearing.

Subsec. (b)(12)(A)(i). Pub. L. 110-246, § 4002(b)(1)(A), (B), (2)(Z), substituted “supplemental nutrition assistance program” for “food stamp program” and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

Subsec. (b)(12)(B). Pub. L. 110-246, § 4002(b)(1)(E), (2)(Z), substituted “supplemental nutrition assistance program” for “food stamps”.

Subsec. (d)(2)(B). Pub. L. 110-246, § 4002(b)(1)(A), (B), (2)(Z), substituted “supplemental nutrition assistance program” for “food stamp program” and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

Subsec. (j). Pub. L. 110-246, § 4302, amended subsec. (j) generally. Prior to amendment, subsec. (j) related to encouragement of purchases of locally produced foods, provision of startup grants, and authorization of appropriations.

2007—Subsec. (b)(12)(A)(iii). Pub. L. 110-134 substituted “the child meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B))” for “the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))”.

2004—Subsec. (a)(2). Pub. L. 108-265, § 102, added par. (2) and struck out former par. (2) which read as follows: “Lunches served by schools participating in the school lunch program under this chapter—

“(A) shall offer students fluid milk; and

“(B) shall offer students a variety of fluid milk consistent with prior year preferences unless the prior year preference for any such variety of fluid milk is less than 1 percent of the total milk consumed at the school.”

Subsec. (a)(4). Pub. L. 108-265, § 103, added par. (4).

Subsec. (b)(2)(B). Pub. L. 108-265, § 104(a)(2)(A), inserted subpar. heading, designated first and second sentences as cls. (i) and (ii), respectively, and inserted headings, in cl. (ii) substituted “Forms and descriptive material distributed in accordance with clause (i)” for “Such forms and descriptive material”, and added cl. (iii).

Subsec. (b)(2)(C)(i). Pub. L. 108-265, § 104(a)(2)(B), redesignated par. (2)(C)(i) as par. (3).

Subsec. (b)(2)(C)(ii) to (vii), (D). Pub. L. 108-265, § 104(a)(2)(C), struck out subpars. (C)(ii) to (vii) and (D), which related to direct certification of children in households receiving other assistance, disclosure of eligibility information, limitations, sanction for wrongful disclosure, waiver of confidentiality, use of disclosed information, and submission of price policy statement by school food authority.

Subsec. (b)(3). Pub. L. 108-265, § 105(a), added par. (3) and struck out former par. (3) which read as follows: “Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulations, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.”

Pub. L. 108-265, § 104(a)(2)(B), redesignated par. (2)(C)(i) as par. (3).

Pub. L. 108-265, § 104(a)(1), redesignated par. (3) as (9).

Subsec. (b)(4). Pub. L. 108-265, § 104(a)(2)(C), added par. (4).

Pub. L. 108-265, § 104(a)(1), redesignated par. (4) as (10).

Subsec. (b)(5). Pub. L. 108-265, § 104(d)(1), struck out “(A) IN GENERAL.—” before “Subject to paragraph (6)”, redesignated cls. (i) to (iv) as subpars. (A) to (D), respectively, and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: “Subject to paragraph (6), any local educational agency may

certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the status of the child as a member of a household that is receiving food stamps under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).”

Pub. L. 108-265, § 104(b)(1), as amended by Pub. L. 108-447, added par. (5).

Pub. L. 108-265, § 104(a)(1), redesignated par. (5) as (11).

Subsec. (b)(6). Pub. L. 108-265, § 104(b)(1), added par. (6).

Pub. L. 108-265, § 104(a)(1), redesignated par. (6) as (12).

Subsec. (b)(7). Pub. L. 108-265, § 104(b)(1), added par. (7).

Pub. L. 108-265, § 104(a)(1), redesignated par. (7) as (13).

Pub. L. 108-211 substituted “June 30, 2004” for “March 31, 2004”.

Subsec. (b)(8). Pub. L. 108-265, § 104(b)(1), added par. (8).

Subsec. (b)(9). Pub. L. 108-265, § 106, inserted par. heading, designated existing provisions as subpars. (A) and (B), inserted subpar. headings, in subpar. (B) designated existing provisions as cls. (i) and (ii) and inserted cl. headings, and added subpar. (C).

Pub. L. 108-265, § 104(a)(1), redesignated par. (3) as (9).

Subsec. (b)(10). Pub. L. 108-265, § 104(a)(1), redesignated par. (4) as (10).

Subsec. (b)(11). Pub. L. 108-265, § 108(a)(1), substituted “Local educational agencies” for “Local school authorities” in second sentence.

Pub. L. 108-265, § 104(a)(1), redesignated par. (5) as (11).

Subsec. (b)(12). Pub. L. 108-265, § 104(a)(1), redesignated par. (6) as (12).

Subsec. (b)(12)(A)(iv) to (vi). Pub. L. 108-265, § 107(a), added cls. (iv) to (vi).

Subsec. (b)(12)(B). Pub. L. 108-265, § 104(d)(2)(A), substituted “this subsection” for “paragraph (2)(C)”.

Subsec. (b)(13). Pub. L. 108-265, § 109, substituted “The” for “For each of fiscal years 2002 and 2003 and through June 30, 2004, the”.

Pub. L. 108-265, § 104(a)(1), redesignated par. (7) as (13).

Subsec. (d)(1). Pub. L. 108-265, § 104(d)(2)(B), substituted “subsection (b)(3)(G)” for “subsection (b)(2)(C)” in second sentence.

Subsec. (d)(2)(A). Pub. L. 108-265, § 108(a)(2), substituted “appropriate local educational agency” for “appropriate local school food authority” and “the local educational agency” for “such authority”.

Subsec. (d)(2)(B), (C). Pub. L. 108-265, § 108(a)(2)(A), substituted “local educational agency” for “local school food authority”.

Subsec. (d)(2)(D), (E). Pub. L. 108-265, § 107(b), added subpars. (D) and (E).

Subsec. (f)(5). Pub. L. 108-265, § 110, substituted “September 30, 2009” for “September 30, 2003”.

Subsec. (h). Pub. L. 108-265, § 111(1), struck out “inspections” after “safety” in heading.

Subsec. (h)(1). Pub. L. 108-265, § 111(2), substituted “A school” for “Except as provided in paragraph (2), a school”, inserted subpar. (A) designation, substituted “at least twice” for “at least once”, and added subpars. (B) and (C).

Subsec. (h)(2) to (5). Pub. L. 108-265, § 111(3), added pars. (2) to (5) and struck out heading and text of former par. (2). Text read as follows: “Paragraph (1) shall not apply to a school if a food safety inspection of the school is required by a State or local governmental agency responsible for food safety inspections.”

Subsec. (j)(2)(A). Pub. L. 108-265, § 112, substituted “2009” for “2007”.

2003—Subsec. (b)(7). Pub. L. 108-134 inserted “and through March 31, 2004” after “and 2003”.

2002—Subsec. (b)(7). Pub. L. 107-171, § 4302(a), added par. (7).

Subsec. (j). Pub. L. 107-171, § 4303, added subsec. (j).

2000—Subsec. (b)(2)(C)(iii)(IV). Pub. L. 106-224, § 242(a)(1), added subcl. (IV).

Subsec. (b)(2)(C)(vi), (vii). Pub. L. 106-224, § 242(a)(2), added cls. (vi) and (vii).

1998—Subsec. (f)(2). Pub. L. 105-336, §102(a)(1), substituted “paragraph (1)” for “subparagraph (A)”.

Subsec. (f)(3), (4). Pub. L. 105-336, §102(a)(2), substituted “this subsection” for “this paragraph” whenever appearing.

Subsec. (f)(5). Pub. L. 105-336, §102(b), added par. (5).

Subsec. (h). Pub. L. 105-336, §102(c), added subsec. (h).

Subsec. (i). Pub. L. 105-336, §102(d), added subsec. (i).

1996—Subsec. (a)(2). Pub. L. 104-193, §702(a)(1), redesignated par. (2)(A) as (2) and cls. (i) and (ii) of former subpar. (A) as subpars. (A) and (B), respectively, and struck out former subpar. (B) which read as follows:

“(B)(i) The Secretary shall purchase in each calendar year to carry out the school lunch program under this chapter, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), lowfat cheese on a bid basis in a quantity that is the milkfat equivalent of the quantity of milkfat the Secretary estimates the Commodity Credit Corporation will purchase each calendar year as a result of the elimination of the requirement that schools offer students fluid whole milk and fluid unflavored lowfat milk, based on data provided by the Director of Office of Management and Budget.

“(ii) Not later than 30 days after the Secretary provides an estimate required under clause (i), the Director of the Congressional Budget Office shall provide to the appropriate committees of Congress a report on whether the Director concurs with the estimate of the Secretary.

“(iii) The quantity of lowfat cheese that is purchased under this subparagraph shall be in addition to the quantity of cheese that is historically purchased by the Secretary to carry out school feeding programs. The Secretary shall take such actions as are necessary to ensure that purchases under this subparagraph shall not displace commercial purchases of cheese by schools.”

Subsec. (a)(3), (4). Pub. L. 104-193, §702(a)(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this chapter without endangering the nutritional integrity of the lunches served by such schools.”

Subsec. (b)(2)(C)(ii)(II). Pub. L. 104-193, §109(g)(1)(A), substituted “State program funded” for “program for aid to families with dependent children” and inserted before period at end “that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995”.

Subsec. (b)(2)(D). Pub. L. 104-193, §703, added subpar. (D).

Subsec. (b)(6)(A)(ii). Pub. L. 104-193, §109(g)(1)(B)(i), substituted “a family (under the State program funded)” for “an AFDC assistance unit (under the aid to families with dependent children program authorized)” and “that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995” for “, in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 9902(2) of this title)”.

Subsec. (b)(6)(B). Pub. L. 104-193, §109(g)(1)(B)(ii), substituted “assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995” for “aid to families with dependent children”.

Subsec. (c). Pub. L. 104-193, §702(b)(2), struck out “Each school shall, insofar as practicable, utilize in its

lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area or commodities donated by the Secretary.” after “operated on a nonprofit basis.”, “The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 612c of title 7, under section 1431 of title 7 and under section 1446a-1 of title 7, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions.” after “authorized to receive such commodities.”, and “None of the requirements of this section in respect to the amount for ‘reduced cost’ meals and to eligibility for meals without cost shall apply to schools (as defined in section 1760(d)(6) of this title which are private and nonprofit as defined in the last sentence of section 1760(d)(6) of this title) which participate in the school lunch program under this chapter until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 1759 of this title the Secretary certifies that sufficient funds from sources other than children’s payments are available to enable such schools to meet these requirements.” at end.

Pub. L. 104-193, §702(b)(1), substituted “provision of law” for “of the provisions of law referred to in the preceding sentence” in fifth sentence.

Subsec. (d)(2)(C). Pub. L. 104-193, §109(g)(2), substituted “State program funded” for “program for aid to families with dependent children” and inserted before period at end “that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995”.

Subsec. (f). Pub. L. 104-193, §702(c)(1)–(3), struck out “(2)” designation before “(A) Except as provided”, redesignated subpars. (A) to (D) as pars. (1) to (4), respectively, and struck out former par. (1) which read as follows: “Not later than the first day of the 1996-97 school year, the Secretary, State educational agencies, schools, and school food service authorities shall, to the maximum extent practicable, inform students who participate in the school lunch and school breakfast programs, and parents and guardians of the students, of—

“(A) the nutritional content of the lunches and breakfasts that are served under the programs; and

“(B) the consistency of the lunches and breakfasts with the guidelines contained in the most recent ‘Dietary Guidelines for Americans’ that is published under section 5341 of title 7 (referred to in this subsection as the ‘Guidelines’), including the consistency of the lunches and breakfasts with the guideline for fat content.”

Subsec. (f)(1). Pub. L. 104-193, §702(c)(4), added par. (1) and struck out former par. (1), as redesignated by Pub. L. 104-193, §702(c)(3), which read as follows: “Except as provided in subparagraph (B), not later than the first day of the 1996-97 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the programs that are consistent with the Guidelines (as measured in accordance with subsection (a)(1)(A)(ii) of this section and section 4(e)(1)).”

Subsec. (f)(2)(D). Pub. L. 104-193 added subpar. (D) and struck out former subpar. (D) which read as follows: “Schools may use any of the approaches described in subparagraph (C) to meet the requirements of this paragraph. In the case of schools that elect to use food-based menu systems to meet the requirements of this paragraph, the Secretary may not require the schools to conduct or use nutrient analysis.”

Subsec. (f)(3). Pub. L. 104-193, §702(c)(5), redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and subcls. (I) and (II) of subpar. (A) as cls. (i) and (ii), respectively.

Subsec. (f)(4). Pub. L. 104-193, §702(c)(6), redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, in subpar. (A), redesignated subcls. (I) and (II) as cls. (i)

and (ii), respectively, and in subpar. (A)(ii), substituted “paragraph (3)” for “subparagraph (C)”.

Subsec. (h). Pub. L. 104-193, § 702(d), struck out subsec. (h) which read as follows: “In carrying out this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a State educational agency may use resources provided through the nutrition education and training program authorized under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) for training aimed at improving the quality and acceptance of school meals.”

1994—Subsec. (a)(1). Pub. L. 103-448, §§ 105(a), 106(a), designated existing provisions as subpar. (A) and cl. (i) of subpar. (A) and added cl. (ii) of subpar. (A) and subpar. (B).

Subsec. (a)(2). Pub. L. 103-448, § 107, amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Lunches served by schools participating in the school lunch program under this chapter shall offer students fluid whole milk and fluid unflavored lowfat milk.”

Subsec. (b)(2)(C)(iii) to (v). Pub. L. 103-448, § 108, added cls. (iii) to (v) and struck out former cl. (iii), which read as follows: “School food service authorities shall only use information obtained under clause (ii) for the purpose of determining eligibility for participation in programs under this chapter and the Child Nutrition Act of 1966.”

Subsec. (b)(6)(A). Pub. L. 103-448, § 109(a)(1), struck out “a member of” after “if the child is” in introductory provisions, inserted “a member of” after “(i)” and “(ii)”, and added cl. (iii).

Subsec. (b)(6)(B). Pub. L. 103-448, § 109(a)(2), inserted “, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii),” after “aid to families with dependent children”.

Subsecs. (f) to (h). Pub. L. 103-448, §§ 106(b), (c), 110, added subsecs. (f) to (h).

1989—Subsec. (a). Pub. L. 101-147, § 101(a), amended subsec. (a), as amended identically by Pub. L. 99-500 and 99-591, § 322, and Pub. L. 99-661, § 4202, to read as if only the amendment by Pub. L. 99-661 was enacted, resulting in no change in text, see 1986 Amendment note below.

Subsec. (a)(1). Pub. L. 101-147, § 312(1), substituted “school lunch” for “school-lunch”.

Subsec. (a)(2). Pub. L. 101-147, § 101(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “In addition to such other forms of milk as the Secretary may determine, the lunches shall offer whole milk as a beverage.”

Subsec. (b). Pub. L. 101-147, §§ 305(b)(1), 312(2), substituted “reduced price” for “reduced-price” and “family size” for “family-size” wherever appearing.

Pub. L. 101-147, § 202(a)(1), (2)(A), amended subsec. (b), as amended identically by Pub. L. 99-500 and Pub. L. 99-591, § 323, and Pub. L. 99-661, § 4203, and as amended by Pub. L. 100-356, § 1, to read as if only the amendment by Pub. L. 99-661 was enacted, and further amended subsec. (b) identically to the amendments that were made by Pub. L. 100-356, § 1, resulting in no change in text, see 1986 and 1988 Amendment notes below.

Subsec. (b)(2)(C). Pub. L. 101-147, § 202(b)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “Eligibility determinations shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, States, and local school food authorities may seek verification of the data contained in the application. Local school food authorities shall undertake such verification of the information contained in these applications as the Secretary may by regulation prescribe and, in accordance with such regulations, make appropriate changes in the eligibility determinations on the basis of such verification.”

Subsec. (c). Pub. L. 101-147, §§ 305(b)(2), 312(1), substituted “School lunch” for “School-lunch”, substituted “school lunch” for “school-lunch” wherever appearing, and made technical amendments to the references to sections 612c, 1431, and 1446a-1 of title 7 involving underlying provisions of original act and requiring no change in text.

Subsec. (d)(1). Pub. L. 101-147, §§ 202(b)(2)(A), 312(2), substituted “reduced price” for “reduced-price” and “number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child’s household, as determined by the Secretary. The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(2)(C) of this section.” for “numbers of all adult members of the household of which such person is a member.”

Subsec. (d)(2). Pub. L. 101-147, § 312(2), substituted “reduced price” for “reduced-price”.

Subsec. (d)(2)(A). Pub. L. 101-147, § 202(b)(2)(B)(i), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “appropriate documentation, as prescribed by the Secretary, of the income of such household has been provided to the appropriate local school food authority; or”.

Subsec. (d)(2)(C). Pub. L. 101-147, § 202(b)(2)(B)(ii), (iii), added subpar. (C).

Subsec. (e). Pub. L. 101-147, § 312(2), substituted “reduced price” for “reduced-price”.

Pub. L. 101-147, § 305(a), amended subsec. (e), as amended identically by Pub. L. 99-500 and Pub. L. 99-591, § 324, and Pub. L. 99-661, § 4204, to read as if only the amendment by Pub. L. 99-661 was enacted, resulting in no change in text, see 1986 Amendment note below.

1988—Subsec. (b)(1)(A). Pub. L. 100-356 substituted “The” for “For the school years ending June 30, 1982, and June 30, 1983, the” in second sentence and struck out provisions which equated income guidelines for determining eligibility for free lunches with gross income eligibility standards for participation in food stamp program.

1986—Subsec. (a). Pub. L. 99-500 and Pub. L. 99-591, § 322, and Pub. L. 99-661, § 4202, amended subsec. (a) identically, designating existing provisions as pars. (1), (3), and (4) and adding par. (2).

Subsec. (b)(6). Pub. L. 99-500 and Pub. L. 99-591, § 323, and Pub. L. 99-661, § 4203, amended subsec. (b) identically, adding par. (6).

Subsec. (e). Pub. L. 99-500 and Pub. L. 99-591, § 324, and Pub. L. 99-661, § 4204, amended section identically, adding subsec. (e).

1981—Subsec. (a). Pub. L. 97-35, § 811, struck out “in any junior high school or middle school” after “grade level”.

Subsec. (b). Pub. L. 97-35, § 803(a), in par. (1) substituted provisions relating to income eligibility guidelines, for provisions relating to income poverty guidelines, redesignated former par. (2) as (5) and, as so redesignated, struck out “solely” after “sentence”, and added pars. (2) to (4).

Subsec. (d). Pub. L. 97-35, § 803(b), added subsec. (d).

1978—Subsec. (b)(1). Pub. L. 95-627 substituted guidelines prescribed by the Office of Management and Budget for the Consumer Price Index for purposes of determining the income poverty guidelines.

1977—Subsec. (a). Pub. L. 95-166 inserted parenthetical text authorizing students in any grade level in any junior high school or middle school, when approved by local school district or nonprofit private school, to refuse to accept offered foods they do not intend to consume.

1975—Subsec. (a). Pub. L. 94-105, § 6(a), directed Secretary to establish administrative procedures designed to diminish food waste in school lunch programs and made provision for senior high school students to refuse food which they do not intend to consume without affecting lunch charges or payments to schools for lunches served.

Subsec. (b)(1). Pub. L. 94-105, § 6(b), designated existing provisions as subsec. (b)(1), struck out “if a school elects to serve reduced-price lunches” after “reduced price not to exceed 20 cents”, inserted provision for a reduced price lunch for any child eligible under reduced price lunch income guidelines, established income



guidelines for reduced price lunches, beginning with fiscal year ending June 30, 1976, at 95 per centum above applicable family size income levels in income poverty guidelines, and provided for a reduced price lunch not to exceed 20 cents to any child belonging to a household whose income falls between guidelines for a free lunch and 95 per centum above income levels in the income poverty guidelines.

Pub. L. 94-105, §6(c), substituted provision adjusting income poverty guidelines that take effect July 1 of each year according to percentage change in Consumer Price Index for 12-month period ending in April of that year, except that the first adjustment, effective July 1, 1976, shall be made according to percentage change between average Consumer Price Index for 1974, on which the 1975-1976 guidelines are based, and Consumer Price Index for April 1976 for provision basing the guidelines on average Consumer Price Index for previous calendar year.

Subsec. (b)(2). Pub. L. 94-105, §6(d), added par. (2).

Subsec. (c). Pub. L. 94-105, §6(e), substituted "schools (as defined in section 1760(d)(6) of this title which are private and nonprofit as defined in the last sentence of section 1760(d)(6) of this title)" for "nonprofit private schools".

1974—Subsec. (b). Pub. L. 93-326 substituted "beginning with the fiscal year ending June 30, 1974" for "for the fiscal year ending June 30, 1974" in provision authorizing State educational agencies to establish income guidelines for reduced price lunches at not more than 75 per centum above applicable family size income levels in income poverty guidelines as prescribed by Secretary.

1973—Subsec. (b). Pub. L. 93-150 inserted proviso relating to income guidelines for reduced price lunches.

1972—Subsec. (a). Pub. L. 92-433, §5(a), designated first sentence as subsec. (a).

Subsec. (b). Pub. L. 92-433, §5(b), designated second through seventh sentences of existing provisions as subsec. (b), separated provisions relating to free and reduced price lunches, substituted May 15 of each year for July 1 of each year as the date by which the Secretary is required to prescribe an income poverty guideline, prescribed free lunch for children of households below the guideline instead of prior provision requiring free lunch or lunch at reduced price, authorized State educational agencies to set up family-size income levels for free and reduced price lunches to be within certain percentage limitations of the guideline prescribed by the Secretary, and provided for continuation until July 1, 1973 of higher guidelines established prior to July 1, 1972.

Subsec. (c). Pub. L. 92-433, §5(c), designated eighth through thirteenth sentences as subsec. (c) and in last sentence inserted provision that requirements of this section are not applicable to nonprofit private schools which participate in the school lunch program under this chapter until the State educational agency certifies about the funds.

1971—Pub. L. 92-153 inserted provisions for consideration of income poverty guidelines during fiscal year 1972 as a national minimum standard of eligibility and for reimbursement of State agencies during such fiscal year pursuant to eligibility standards established by State agencies prior to Oct. 1, 1971.

1970—Pub. L. 91-248 placed a ceiling of 20 cents on any reduced price meal offered under the school lunch program, provided for determination of ability to pay the full cost of lunch based on a publicly announced policy the minimum criteria of which includes family income and the number of school children in the family unit as well as the size of the family unit in general, but, under which, by Jan. 1, 1971, such determination shall be based on the income poverty guidelines with first priority given to providing free meals to the neediest children, provided that there be no overt identification of those children who receive free and reduced price meals, authorized the Secretary to prescribe such terms and conditions for food service in the non-national School Lunch Act schools as well as schools

under this Act which are receiving Federal assistance in the form of commodities, and excepted from requirements of this section with respect to amount for reduced cost meals and eligibility for meals without cost nonprofit private schools which participate in the school lunch program under the provisions of section 1759 of this title until the Secretary certifies that sufficient funds are available to enable such schools to meet the requirements of this section.

1968—Pub. L. 90-302 provided that minimum nutritional requirements prescribed by the Secretary on basis of tested nutritional research which lunches served by participating schools must meet could not be construed to prohibit substitution of foods to accommodate medical or other special dietary needs of individual students.

#### CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111-296, set out as a note under section 1751 of this title.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by sections 4002(b)(1)(A), (B), (E), (2)(Z), and 4302 of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by sections 102, 104(a)(2), (b)(1), (d)(1), (2), 105(a), and 111 of Pub. L. 108-265 effective July 1, 2005, see section 502(b)(4) of Pub. L. 108-265, as amended, set out as an Effective Date note under section 1754 of this title.

Amendment by sections 103, 104(a)(1), 108(a), 109, 110, and 112 of Pub. L. 108-265 effective June 30, 2004, except as otherwise provided, see section 502(a) of Pub. L. 108-265, as amended, set out as an Effective Date note under section 1754 of this title.

Pub. L. 108-265, title I, §104(d)(1), June 30, 2004, 118 Stat. 737, provided that the amendment made by section 104(d)(1) is effective July 1, 2008.

Amendment by sections 106 and 107 of Pub. L. 108-265 effective July 1, 2004, see section 502(b)(1) of Pub. L. 108-265, as amended, set out as an Effective Date note under section 1754 of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-171, title IV, §4302(b), May 13, 2002, 116 Stat. 331, provided that: "The amendment made by this section [amending this section] takes effect on the date of enactment of this Act [May 13, 2002]."

Amendment by section 4303 of Pub. L. 107-171 effective Oct. 1, 2002, except as otherwise provided, see section 4405 of Pub. L. 107-171, set out as an Effective Date note under section 1161 of Title 2, The Congress.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-224, title II, §242(c), June 20, 2000, 114 Stat. 413, provided that: "The amendments made by this section [amending this section and sections 1760 and 1786 of this title] take effect on October 1, 2000."

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-336 effective Oct. 1, 1998, see section 401 of Pub. L. 105-336, set out as a note under section 1755 of this title.

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 109(g) of Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 105(a) and 106 to 108 of 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.

Pub. L. 103-448, title I, §109(c), Nov. 2, 1994, 108 Stat. 4705, provided that: "The amendments made by this section [amending this section and section 1766 of this title] shall become effective on September 25, 1995."

## EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-147, title II, §202(a)(2)(B), Nov. 10, 1989, 103 Stat. 908, provided that: "The amendments made by subparagraph (A) [amending this section] shall take effect as if such amendments had been effective on June 28, 1988."

## EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-500, title III, §§322-324, Oct. 18, 1986, 100 Stat. 1783-361, Pub. L. 99-591, title III, §§322-324, Oct. 30, 1986, 100 Stat. 3341-364, and Pub. L. 99-661, div. D, title II, §§4202-4204, Nov. 14, 1986, 100 Stat. 4072, provided that the amendments made by those sections are effective July 1, 1986.

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 803(a), (b) and 811 of Pub. L. 97-35 effective Aug. 13, 1981, and Sept. 1, 1981, respectively, see section 820(a)(1)(E), (7)(A) 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 July 1, 1979, except as specifically provided, see section 14 of Pub. L. 95-627, set out as a note under section 1755 of this title.

## EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94-105, §6(c), Oct. 7, 1975, 89 Stat. 512, provided that the amendment made by that section is effective Jan. 1, 1976.

## REGULATIONS

Pub. L. 108-265, title V, §501, June 30, 2004, 118 Stat. 789, provided that:

"(a) GUIDANCE.—As soon as practicable after the date of enactment of this Act [June 30, 2004], the Secretary of Agriculture shall issue guidance to implement the amendments made by sections 102, 103, 104, 105, 106, 107, 111, 116, 119(c), 119(g), 120, 126(b), 126(c), 201, 203(a)(3), 203(b), 203(c)(5), 203(e)(3), 203(e)(4), 203(e)(5), 203(e)(6), 203(e)(7), 203(e)(10), and 203(h)(1) [amending this section, sections 1396a, 1759a, 1761, 1766, 1769, 1769c, 1773, 1776, and 1786 of this title, and section 2020 of Title 7, Agriculture].

"(b) INTERIM FINAL REGULATIONS.—The Secretary may promulgate interim final regulations to implement the amendments described in subsection (a).

"(c) REGULATIONS.—Not later than 2 years after the date of enactment of this Act [June 30, 2004], the Secretary shall promulgate final regulations to implement the amendments described in subsection (a)."

Pub. L. 101-147, title II, §202(c), Nov. 10, 1989, 103 Stat. 909, provided that: "Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b) [amending this section]."

## REVIEW OF LOCAL POLICIES ON MEAL CHARGES AND PROVISION OF ALTERNATE MEALS

Pub. L. 111-296, title I, §143, Dec. 13, 2010, 124 Stat. 3213, provided that:

"(a) IN GENERAL.—

"(1) REVIEW.—The Secretary [of Agriculture], in conjunction with States and participating local educational agencies, shall examine the current policies and practices of States and local educational agencies regarding extending credit to children to pay the cost to the children of reimbursable school lunches and breakfasts.

"(2) SCOPE.—The examination under paragraph (1) shall include the policies and practices in effect as of the date of enactment of this Act [Dec. 13, 2010] relating to providing to children who are without funds a meal other than the reimbursable meals.

"(3) FEASIBILITY.—In carrying out the examination under paragraph (1), the Secretary shall—

"(A) prepare a report on the feasibility of establishing national standards for meal charges and the provision of alternate meals; and

"(B) provide recommendations for implementing those standards.

"(b) FOLLOWUP ACTIONS.—

"(1) IN GENERAL.—Based on the findings and recommendations under subsection (a), the Secretary may—

"(A) implement standards described in paragraph (3) of that subsection through regulation;

"(B) test recommendations through demonstration projects; or

"(C) study further the feasibility of recommendations.

"(2) FACTORS FOR CONSIDERATION.—In determining how best to implement recommendations described in subsection (a)(3), the Secretary shall consider such factors as—

"(A) the impact of overt identification on children;

"(B) the manner in which the affected households will be provided with assistance in establishing eligibility for free or reduced price school meals; and

"(C) the potential financial impact on local educational agencies."

## INCOME ELIGIBILITY GUIDELINES

Pub. L. 96-499, title II, §203(a)–(c), Dec. 5, 1980, 94 Stat. 2600, as amended by Pub. L. 97-35, title VIII, §820(b)(3), Aug. 13, 1981, 95 Stat. 535, provided that:

"(a), (b) [Repealed].

"(c) For the school year ending June 30, 1981, the Secretary may prescribe procedures for implementing the revisions in the income poverty guidelines for free and reduced price lunches contained in this section that may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income poverty guidelines or (2) distribute new applications containing the revised income poverty guidelines and make eligibility determinations using the new applications."

## VERIFICATION OF ELIGIBILITY DATA SUBMITTED ON A SAMPLE OF APPLICATIONS FOR FREE AND REDUCED-PRICE MEALS

Pub. L. 97-35, title VIII, §803(c), Aug. 13, 1981, 95 Stat. 525, provided that: "Notwithstanding any other provision of law, the Secretary of Agriculture shall conduct a pilot study to verify the data submitted on a sample of applications for free and reduced-price meals. In conducting the pilot study, the Secretary may require households included in the study to furnish social security numbers of all household members and such other information as the Secretary may require, including, but not limited to, pay stubs, documentation of the current status of household members who are recipients of public assistance, unemployment insurance doc-

uments, and written statements from employers, as a condition for receipt of free or reduced-price meals.”

**PROCEDURES FOR IMPLEMENTING NEW INCOME ELIGIBILITY GUIDELINES FOR FREE AND REDUCED-PRICE LUNCHES**

Pub. L. 97-35, title VIII, §803(d), Aug. 13, 1981, 95 Stat. 526, provided that for school year ending June 30, 1982, Secretary could prescribe procedures for implementing the revisions made by section 803 of Pub. L. 97-35, amending this section, to the income eligibility guidelines for free and reduced-price lunches under this section, and that such procedures could allow school food authorities to use applications distributed at beginning of school year when making eligibility determinations or to distribute new applications.

**LOWERING MINIMUM STANDARD OF ELIGIBILITY AND REDUCTION IN NUMBER OF CHILDREN SERVED, FISCAL YEAR 1972**

Pub. L. 92-153, §6, Nov. 5, 1971, 85 Stat. 420, provided that: “The Secretary shall not lower minimum standards of eligibility for free and reduced price meals nor require a reduction in the number of children served in any school district during a fiscal year to be effective for that fiscal year. This section shall apply to fiscal year 1972.”

**§ 1758a. State performance on enrolling children receiving program benefits for free school meals**

**(a) In general**

Not later than December 31, 2008 and June 30 of each year thereafter, the Secretary shall submit to the Committees on Agriculture and Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that assesses the effectiveness of each State in enrolling school-aged children in households receiving program benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (referred to in this section as “program benefits”) for free school meals using direct certification.

**(b) Specific measures**

The assessment of the Secretary of the performance of each State shall include—

(1) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year;

(2) an estimate of the number of school-aged children, by State, who were directly certified as eligible for free lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), based on receipt of program benefits, as of October 1 of the prior year; and

(3) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year who were not candidates for direct certification because on October 1 of the prior year the children attended a school operating under the special assistance provisions of section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) that is not operating in a base year.

**(c) Performance innovations**

The report of the Secretary shall describe best practices from States with the best performance

or the most improved performance from the previous year.

(Pub. L. 110-234, title IV, §4301, May 22, 2008, 122 Stat. 1125; Pub. L. 110-246, §4(a), title IV, §4301, June 18, 2008, 122 Stat. 1664, 1886.)

**REFERENCES IN TEXT**

The Food and Nutrition Act of 2008, referred to in subsec. (a), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Richard B. Russell National School Lunch Act, referred to in subsec. (b)(2), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

**CODIFICATION**

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Richard B. Russell National School Lunch Act which comprises this chapter.

**CHANGE OF NAME**

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

**EFFECTIVE DATE**

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.

Section effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as an Effective Date of 2008 Amendment note under section 1161 of Title 2, The Congress.

**DEFINITION OF “SECRETARY”**

“Secretary” as meaning the Secretary of Agriculture, see section 8701 of Title 7, Agriculture.

**§ 1758b. Local school wellness policy**

**(a) In general**

Each local educational agency participating in a program authorized by this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall establish a local school wellness policy for all schools under the jurisdiction of the local educational agency.

**(b) Guidelines**

The Secretary shall promulgate regulations that provide the framework and guidelines for local educational agencies to establish local school wellness policies, including, at a minimum,—

(1) goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness;

(2) for all foods available on each school campus under the jurisdiction of the local educational agency during the school day, nutrition guidelines that—

(A) are consistent with sections 1758 and 1766 of this title, and sections 4 and 10 of the