

VIII, § 808(b), Aug. 13, 1981, 95 Stat. 527; Pub. L. 99-500, title III, § 325(b), Oct. 18, 1986, 100 Stat. 1783-361, and Pub. L. 99-591, title III, § 325(b), Oct. 30, 1986, 100 Stat. 3341-365; Pub. L. 99-661, div. D, title II, § 4205(b), Nov. 14, 1986, 100 Stat. 4072; Pub. L. 100-71, title I, § 101(b), July 11, 1987, 101 Stat. 430; Pub. L. 101-147, title III, § 325, Nov. 10, 1989, 103 Stat. 917; Pub. L. 104-193, title VII, § 727, Aug. 22, 1996, 110 Stat. 2302; Pub. L. 105-336, title I, § 107(j)(3)(D), Oct. 31, 1998, 112 Stat. 3153.)

## REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in par. (7), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. Title II of the Act is classified generally to subchapter II (§ 760 et seq.) of chapter 16 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

## CODIFICATION

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

## AMENDMENTS

1998—Par. (6). Pub. L. 105-336, § 107(j)(3)(D)(i), substituted “disabilities” for “mental or physical handicaps” in two places.

Par. (7). Pub. L. 105-336, § 107(j)(3)(D)(ii), added par. (7).

1996—Par. (1). Pub. L. 104-193, § 727(1), substituted “the Commonwealth of the Northern Mariana Islands” for “Trust Territory of the Pacific Islands”.

Par. (3). Pub. L. 104-193, § 727(2), inserted “and” before “(B)” and struck out “, and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico” before “. For purposes of clauses (A) and (B)”.

1989—Pub. L. 101-147 redesignated subsec. (a) through (f) as pars. (1) through (6), respectively, in par. (2) redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, in par. (3) substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text, and in par. (6) substituted “to have 1 or more mental or physical handicaps” for “to be mentally or physically handicapped” and “for individuals with mental or physical handicaps” for “for mentally or physically handicapped”.

1987—Subsec. (c). Pub. L. 100-71 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “‘School’ means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this subsection, the term ‘nonprofit’, when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of title 26. On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available.”

1986—Subsec. (c). Pub. L. 99-661, § 4205(b)(2), inserted “On July 1, 1988, and on each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect the changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available.”

Subsec. (c)(A). Pub. L. 99-500 and Pub. L. 99-591, which directed the amendment of subpar. (A) by striking out “except private schools whose average yearly tuition exceeds \$1,500 per child,” after “such school” was executed by striking out “except private schools whose average yearly tuition exceeds \$2,000 per child,” after “such school” to reflect the probable intent of Congress and the intervening amendment of subpar. (A) by Pub. L. 99-661, § 4205(b)(2). See below.

Pub. L. 99-661, § 4205(b)(1), substituted “\$2,000” for “\$1,500”.

1981—Subsec. (c). Pub. L. 97-35 inserted exception for private schools whose average yearly tuition exceeds \$1,500.

1980—Subsec. (c). Pub. L. 96-499 inserted “, but excluding Job Corps Centers funded by the Department of Labor” after “mentally retarded”.

1978—Subsec. (e). Pub. L. 95-627, § 10(c), substituted “from July 1 through June 30” for “determined in accordance with regulations issued by the Secretary”.

Subsec. (f). Pub. L. 95-627, § 10(d)(3), added subsec. (f).

1977—Subsec. (e). Pub. L. 95-166 added subsec. (e).

1975—Subsec. (a). Pub. L. 94-105, § 15(c), included Trust Territory of Pacific Islands in definition of “State”.

Subsecs. (c) to (e). Pub. L. 94-105, § 17(b), struck out subsec. (c) which defined “Nonprofit private school” as any private school exempt from income tax under section 501(c)(3) of title 26, redesignated subsecs. (d) and (e) as (c) and (d) respectively, and in subsec. (c) as so redesignated, inserted definition of “School” any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and provision defining “nonprofit” as an exemption under section 501(c)(3) of title 26.

## 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 1987 AMENDMENT

Amendment by Pub. L. 100-71 effective July 1, 1987, see section 101(c) of Pub. L. 100-71, set out as a note under section 1760 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by section 4205(b)(1) of Pub. L. 99-661 applicable for fiscal year beginning Oct. 1, 1986, and each school year thereafter, and amendment by section 4205(b)(2) of Pub. L. 99-661 applicable for school year beginning July 1, 1988, and each school year thereafter, see section 4205(c) of Pub. L. 99-661, set out as a note under section 1760 of this title.

Amendment by Pub. L. 99-500 and Pub. L. 99-591 effective July 1, 1987, see section 325(c) of Pub. L. 99-500 and Pub. L. 99-591, set out as a note under section 1760 of this title.

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 820(a)(3) 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.

## EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-166, § 20, Nov. 10, 1977, 91 Stat. 1346, provided that the amendment made by that section is effective July 1, 1977.

### § 1785. Accounts and records; availability for inspection; authority to settle, adjust, or waive claims

(a) States, State educational agencies, schools, and nonprofit institutions participating

in programs under this chapter shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this chapter and the regulations hereunder. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of three years, as the Secretary determines is necessary.

(b) With regard to any claim arising under this chapter or under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.], the Secretary shall have the authority to determine the amount of, to settle and to adjust any such claim, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of either this chapter or the Richard B. Russell National School Lunch Act. Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28 to conduct litigation on behalf of the United States.

(Pub. L. 89-642, §16, Oct. 11, 1966, 80 Stat. 890; Pub. L. 97-35, title VIII, §816, Aug. 13, 1981, 95 Stat. 531; Pub. L. 104-193, title VII, §728, Aug. 22, 1996, 110 Stat. 2302; Pub. L. 106-78, title VII, §752(b)(16), Oct. 22, 1999, 113 Stat. 1170.)

#### REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (b), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

#### AMENDMENTS

1999—Subsec. (b). Pub. L. 106-78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act” in two places.

1996—Subsec. (a). Pub. L. 104-193 substituted “be available at any reasonable time” for “at all times be available”.

1981—Pub. L. 97-35 designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 820(a)(7)(C), of Pub. L. 97-35, set out as a note under section 1753 of this title.

#### STUDY OF COST ACCOUNTING REQUIREMENTS

Secretary prohibited from delaying or withholding or causing any State to delay or withhold payments for reimbursement of per meal costs on the basis of non-compliance with full cost accounting procedure unless and until the Secretary has studied additional personnel and training needs of States, local school districts and schools resulting from imposition of requirement to implement full cost accounting procedures, see section 21 of Pub. L. 94-105, set out as a note under section 1760 of this title.

### § 1786. Special supplemental nutrition program for women, infants, and children

#### (a) Congressional findings and declaration of purpose

Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding

women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education, including breastfeeding promotion and support, through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems, including drug abuse, and improve the health status of these persons.

#### (b) Definitions

As used in this section—

(1) “Breastfeeding women” means women up to one year postpartum who are breastfeeding their infants.

(2) “Children” means persons who have had their first birthday but have not yet attained their fifth birthday.

(3) “Competent professional authority” means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

(4) “Costs of nutrition services and administration” or “nutrition services and administration” means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, breastfeeding support and promotion, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

(5) “Infants” means persons under one year of age.

(6) “Local agency” means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health and Human Services, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

(7) NUTRITION EDUCATION.—The term “nutrition education” means individual and group sessions and the provision of material that are designed to improve health status and achieve positive change in dietary and physical activity habits, and that emphasize the relation-