

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, §20(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 documents, 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 Child Nutrition Act of 1966 (42 U.S.C. 1773, 1779); and

(B) promote student health and reduce childhood obesity;

(3) a requirement that the local educational agency permit parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the general public to participate in the development, implementation, and periodic review and update of the local school wellness policy;

(4) a requirement that the local educational agency inform and update the public (including parents, students, and others in the community) about the content and implementation of the local school wellness policy; and

(5) a requirement that the local educational agency—

(A) periodically measure and make available to the public an assessment on the implementation of the local school wellness policy, including—

(i) the extent to which schools under the jurisdiction of the local educational agency are in compliance with the local school wellness policy;

(ii) the extent to which the local school wellness policy of the local educational agency compares to model local school wellness policies; and

(iii) a description of the progress made in attaining the goals of the local school wellness policy; and

(B) designate 1 or more local educational agency officials or school officials, as appropriate, to ensure that each school complies with the local school wellness policy.

(c) Local discretion

The local educational agency shall use the guidelines promulgated by the Secretary under subsection (b) to determine specific policies appropriate for the schools under the jurisdiction of the local educational agency.

(d) Technical assistance and best practices

(1) In general

The Secretary, in consultation with the Secretary of Education and the Secretary of