

PROPOSED RULE: CHILD NUTRITION INTEGRITY

USDA FOOD & NUTRITION SERVICE
CHILD NUTRITION PROGRAMS

BEFORE WE BEGIN

- Questions go into the chat box (bottom left corner).
- The Power Point and any resources discussed will be sent to ALL webinar participants immediately following today's presentation.
- Presentation will be made available as a Webcast.

PROPOSED RULE

- Title: Child Nutrition Program Integrity
- Publication Date: March 29, 2016
- Docket Number: 2016-06801
- Review and Comment at:
<https://www.federalregister.gov/articles/2016/03/29/2016-06801/child-nutrition-program-integrity>
- 60 Day Comment Period Closes: May 31, 2016

WEBINAR OVERVIEW

- Background
- Proposed Program Changes
- Potential Impact on Stakeholders
- Providing Public Comment

PURPOSE & INTENT

Strengthen management and ensure access to all Child Nutrition Programs:

- National School Lunch Program (NSLP)
- School Breakfast Program (SBP)
- Special Milk Program (SMP)
- Fresh Fruit and Vegetable Program (FFVP)
- Child and Adult Care Food Program (CACFP)
- School Food Summer Program (SFSP)

SAFEGUARDING PROGRAM INTEGRITY

- Healthy, Hunger-Free Kids Act (HHFKA) of 2010
 - Office of Inspector General Audit Recommendations
 - Technical Corrections
1. Ensure proper and efficient administration of the Child Nutrition Programs.
 2. Reduce misuse of Program funds.
 3. Improve compliance with Program eligibility requirements, nutrition standards, procurement practices, and other critical Program requirements.

PROGRAM OVERSIGHT ENHANCEMENT

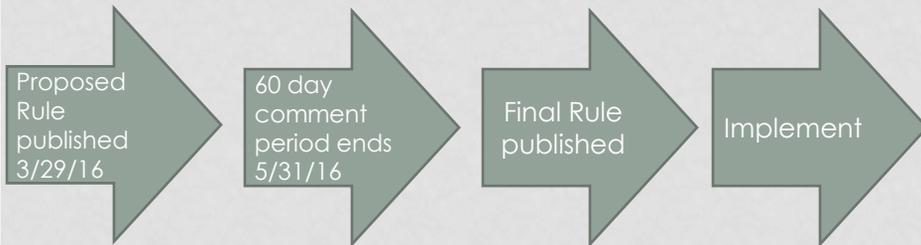
- **Permanent removal** of Program operators **continually or intentionally mismanaging** a Child Nutrition Program.
- Imposition of **financial assessments** for **willful, repeated, & egregious** Program mismanagement.
- **Establishment of SFSP disqualification** procedures.
- Improvement of CACFP management by **increasing State resources, strengthening review timeframes**, & establishing other requirements designed to **improve oversight** of CACFP operators.
- **Strengthened training** of NSLP State and School Program operators related to **effective award & management of contracts**.

WHY IS THIS RULE IMPORTANT?

Address and deter Program mismanagement:

- Ensure proper & efficient Program administration.
- Reduce misuse of Program funds.
- Improve compliance with meal patterns & nutrition standards.
- Reduce participant certification error.
- Improve the integrity of the procurement process.
- Reduce meal counting & claiming error through increased administrative review & penalties for non-compliance.

REGULATION PROCESS



PROPOSED IMPLEMENTATION

After publication of Final Rule:

- Most provisions: after **90 days**
- Additional State CACFP Audit Funds: **immediately**
- Assessments against State agencies and Program operators: no sooner than **one school year**

USDA encourages comments specific to this proposed implementation schedule!

PROPOSED CHANGES

ESTABLISHING ASSESSMENT CRITERIA

- Section 303 of HHFKA requires the Secretary to establish assessment criteria for State agencies, school food authorities (SFA), institutions, sites, sponsoring organizations, day care homes and centers.
- All Child Nutrition Program operators are impacted if they have:
 - Failed to correct severe mismanagement of any Program
 - Failed to correct repeated violations of Program requirements
 - Disregarded a requirement of which they have been informed

PROCESS TO ESTABLISH ASSESSMENTS

Only in instances of **severe** mismanagement of a Program, disregard of a Program requirement of **which the Program operator had been informed**, or failure to correct **repeated** violations.

- The Act limits the cost of imposing an assessment.
- The Act allows for appeal of an assessment.
- Assessments are to be paid to the Department, then transmitted to the Treasury.

SFSP DISQUALIFICATION

- Section 322 of HHFKA requires the Secretary to establish procedures for the termination and disqualification of organizations participating in SFSP.
 - In the past, USDA and State agencies did not have the authority to **disqualify** SFSP sponsors, only terminate.
 - Rule establishes a disqualification & National Disqualified List (NDL) procedure, similar to CACFP.
 - Modification to CACFP process, to reflect shorter duration of SFSP.

RECIPROCAL DISQUALIFICATION IN ALL CHILD NUTRITION PROGRAMS

- Section 362 of HHFKA requires that any institution appearing on the NDL will be prohibited from administering any other Child Nutrition Program.
 - Prohibition applies when any entity is disqualified and on the **CACFP or SFSP NDL** & any entity is **terminated for cause from NSLP**.
 - State agencies will share information about the disqualified entities on a timely basis with other States and USDA.
 - USDA interprets this section to not apply to WIC local agencies.
 - 'Individuals' disqualified are responsible principals or responsible individuals operating the Program, **not individuals receiving nutrition assistance benefits**.

TERMINATION & DISQUALIFICATION CACFP SPONSORED CENTERS

- Section 362 of HHFKA creates termination procedures for non-compliant **sponsored** child or adult day **care centers**.
 - Mirrors the process for family day care homes.
 - Applies to **unaffiliated centers**, not part of the same legal entity as the sponsoring organization.

Q&A

- Submit questions in the chat box in the lower right portion of your screen.

CACFP SITE REVIEW REQUIREMENTS

- Section 331 (b) of HHFKA places additional criteria on State agencies when reviewing 33.3% of all institutions.
 - (1) At least once every 3-years (currently required!)
 - (2) More frequent reviews of those institutions who
 - Are large (current)
 - Conduct activities other than the CACFP (**new**)
 - Have serious management problems as identified in a prior review (**new**)
 - Are at risk of having serious management problems (**new**)
 - Meet such other criteria as defined by USDA (**new**)

CACFP STATE AUDIT FUNDING

- Section 335 of the HHFKA allows an increase of the amount of audit funds, up to 2% of funds used from the preceding year, made available to State agencies if:
 - The State agency can demonstrate effective use of funds to improve Program management.
 - The State agency submits a plan for the use of additional audit funds.

CACFP STATE PAYMENT LIABILITY

- Section 332 of HHFKA requires State agencies to provide fair and timely hearings if there are serious deficiencies in CACFP.
 - The State agency would be required to **pay all valid claims** for reimbursement, if the timeframes for the hearings are not met.
 - State agency would be required to pay **from non-Federal** sources all valid claims for reimbursement.
 - USDA would afford the State agency the opportunity to seek **a reduction or reconsideration of its liability**.

FINANCIAL REVIEWS OF CACFP SPONSORING ORGANIZATIONS OF CENTERS

- Current: State agencies are required to approve sponsor budgets and assess compliance.

No required process.

FINANCIAL REVIEWS OF CACFP SPONSORS OF CENTERS

- Proposed: CACFP sponsors of centers are **required to report expenditures**.
 - Annual reporting.
 - State agencies required to develop system to verify.
- Proposed: State agencies will verify CACFP bank account activity for sponsors.
 - Required to verify **a selected month on a yearly basis**.
 - Any violation of CACFP requirements will require the State agency to refer the sponsor to State authorities.

Q&A

- Submit questions in the chat box in the lower right portion of your screen.

ANNUAL NSLP PROCUREMENT TRAINING

USDA's OIG Report

National School Lunch Program-Food Service Management Company Contracts

- **Appropriate** State agency & SFA staff must complete annual procurement training.
- Training areas may include:
 - Applicable State and Federal procurement requirements including a general overview of the procurement process, competitive procurements, Buy American provision.
 - State agency & SFA responsibilities with regard to FSMC contracts and all contract changes.
 - USDA Foods.
 - Intergovernmental cooperation.
 - Geographic preference.
 - Protests & ethics as it relates to the operation of the NSLP.

FIXED PRICE CONTRACTS IN NSLP

- Currently: Two types of FSMC contracts allowed
 - Fixed price contracts that provide for fixed fees.
 - Cost-reimbursable contracts that provide for management fees established on a per meal basis.
- Proposed: Eliminate cost-reimbursable contracts
 - To ensure that discounts, rebates, and credits were returned to the nonprofit school food service account, and ensure no prohibited expenses were paid using Program funds.

IMPACT ON STAKEHOLDERS

- USDA will provide technical assistance to help all stakeholders successfully implement the regulatory changes.
- Ongoing FNS efforts will lead to overall reduced Program errors, resulting in improved compliance and increased Program access.

PUBLIC COMMENTS

HOW TO SUBMIT COMMENTS

- Online (preferred method)
 - Visit the Federal eRulemaking Portal at www.regulations.gov
 - <https://www.federalregister.gov/articles/2016/03/29/2016-06801/child-nutrition-program-integrity>
- Mail
 - Andrea Farmer
 - Branch Chief
 - Policy and Program Development Division
 - Child Nutrition Programs
 - Food and Nutrition Service
 - Department of Agriculture
 - 3101 Park Center Dr.
 - Alexandria, VA. 22302
- Emails will not be accepted

PUBLIC COMMENTS

- Comment period open for 60 days: May 31, 2016
- Written comments should:
 - Be specific and confined to only issues pertinent to the proposed rule
 - Explain the reasons and/or provide supporting information for any recommended changes or provisions you oppose
- Reference the section or paragraph of the proposal you're addressing, when possible

Q&A

- Submit questions in the chat box in the lower right portion of your screen.