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**DEPARTMENT OF AGRICULTURE**

**Food and Nutrition Service**

**7 CFR Parts 210 and 235**

**[FNS-2011-0030]**

**RIN 0584-AE19**

**Professional Standards for State and Local School Nutrition Programs Personnel as Required by the Healthy, Hunger-Free Kids Act of 2010**

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes minimum professional standards for school nutrition personnel who manage and operate the National School Lunch and School Breakfast Programs. The final rule institutes hiring standards for the selection of State and local school nutrition program directors, and requires all personnel in the school nutrition programs to complete annual continuing education/training. These regulations are expected to result in consistent, national professional standards that strengthen the ability of school nutrition professionals and staff to perform their duties effectively and efficiently.

**DATES:** This rule is effective July 1, 2015. Compliance with the provisions of this rule must begin July 1, 2015, except as noted in specific regulatory provisions.

**FOR FURTHER INFORMATION CONTACT:** Julie Brewer, School Programs Branch, Policy and Program Development Division, Food and Nutrition Service, at (703) 305-2590.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Healthy, Hunger-Free Kids Act of 2010 (HHFKA), Public Law 111-296, requires significant changes in the Child Nutrition Programs to prevent and reduce childhood obesity, give eligible children access to nutrition benefits, and enhance the ability of nutrition professionals to operate the National School Lunch Program (NSLP) and School Breakfast Program (SBP) efficiently. Section 306 of the HHFKA amended section 7 of the Child Nutrition Act of 1966 (CNA) (42 U.S.C. 1776) by adding paragraph (g), “Professional Standards for School Food Service.” This provision is intended to ensure that school nutrition professionals that manage and operate the NSLP and SBP have adequate knowledge and training to meet Program requirements. Requiring proper qualifications to serve in the Child Nutrition Programs is expected to improve the quality of school meals, reduce errors, and enhance Program integrity.

The Food and Nutrition Service (FNS) of the Department of Agriculture (USDA) issued a proposed rule (79 FR 6488) on February 4, 2014, seeking to amend the regulations governing the NSLP (7 CFR part 210) and the State administrative expense funds (7 CFR part 235) consistent with amendments made to the CNA by the HHFKA. The rule proposed to establish national hiring standards and annual continuing education/training requirements for school nutrition professionals that manage and operate the NSLP and SBP.

In developing the proposed professional standards, FNS considered input from a variety of sources. First, in November 2011, FNS conducted a session at the State Agency Meeting for State Child Nutrition Directors and their staff members. At that session, the participants brought

up a number of general issues for FNS to consider, including grandfathering (the practice of exempting existing personnel from the new requirements), monitoring by State agencies, and how the new requirements would relate to existing State and local standards.

On March 13-14, 2012, FNS held a two-day listening session with approximately 60 invited stakeholders representing a variety of State agencies, local educational agencies (LEAs), professional associations and other constituencies concerned with standards affecting child nutrition professionals. The stakeholders provided suggestions for FNS to consider regarding required and preferred professional standards, and offered input on potential challenges and on use of resources to successfully implement national standards.

As follow-up to the March session, interested participants volunteered to continue providing input via conference calls. Participants on the calls included State and district directors, professional organizations, and FNS staff. Calls focused on three topics: criteria and standards for hiring State agency directors; minimum education and training requirements for school nutrition directors; and training requirements for school nutrition managers and other staff. FNS conducted the conference calls in the five months following the listening session.

FNS also received feedback from attendees at the School Nutrition Association's Annual National Conference in July 2012 and July 2013. The audience, which consisted of State agency directors and staff, school nutrition directors, managers and other personnel, provided significant input for the proposed professional standards.

As a result of the stakeholders' feedback, FNS developed proposed professional standards consisting of minimum educational requirements for new State directors and school nutrition program directors, and annual continuing education/training requirements for all school nutrition

personnel. These proposed standards for State directors are summarized in the following two charts and discussed later in the preamble:

| <b>Proposed Rule Hiring Standards for New State Agency Directors</b> |  |  |
|--|--|--|
|  | <b>State Director of School Nutrition Program</b>  | <b>State Director of Distributing Agencies</b> |
| Education  | A bachelor's degree with an academic major in areas including food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field | A bachelor's degree with any academic major    |
| Knowledge & Experience   | Extensive relevant knowledge and experience in areas such as institutional food service operations, management, business, and/or nutrition education   |  |
| Skills & Abilities   | Additional abilities and skills needed to lead, manage, and supervise people to support the mission of Child Nutrition Programs  |  |

| <b>Proposed Rule Training Requirements for All State Agency Directors</b>  |  |
|--|--|
| <b>State Director of School Nutrition Programs</b>   | <b>State Director of Distributing Agencies</b>   |
| <ul style="list-style-type: none"> <li>Each school year, must complete at least 15 hours of annual continuing education/training in core areas, such as nutrition, operations, administration, communications, and marketing. Additional hours and topics may be specified by FNS annually, as necessary.</li> <li>Must also provide or ensure that State agency staff receives annual continuing education/training.</li> <li>Must provide the SFAs at least 18 hours of training in topics such as administrative practices (training in application, certification, verification, meal counting and meal claiming procedures); the accuracy of approvals for free and reduced price meals; the identification of reimbursable meals at the point of service; nutrition; health and food safety standards; the efficient and effective use of USDA foods; and any other appropriate topics, as determined by FNS, to ensure program compliance and integrity.</li> </ul> | <ul style="list-style-type: none"> <li>Each school year, must complete at least 15 hours of annual continuing education/training in core areas, such as nutrition, operations, administration, communications, and marketing. Additional hours and topics may be specified by FNS annually, as necessary.</li> <li>Must also provide or ensure that State agency staff receives annual continuing education/training in topics such as the efficient and effective use of USDA donated foods; inventory rotation and control; health and food safety standards; and any other appropriate topics, as determined by FNS, to ensure program compliance and integrity.</li> </ul> |

For employees at the local level, FNS proposed minimum educational requirements for new school nutrition program directors only, based on an LEA size/student enrollment (LEAs with 2,499 students or less, LEAs with 2,500-9,999 students, LEAs with 10,000-24,999 students, and

LEAs with 25,000 or more students). The proposed hiring standards are intended to apply to the school food authority (SFA), which is the governing body that has the legal authority to operate the school meal programs. In addition, FNS proposed annual continuing education/training requirements for all SFA employees. The proposed standards for SFA employees are summarized in the following two charts and discussed later in the preamble:

| Proposed Rule Hiring Standards for School Nutrition Program Directors by Local Educational Agency Size   |  |  |  |  |
|--|--|--|--|--|
| Minimum Requirements for Directors   | Student Enrollment 2,499 or less   | Student Enrollment 2,500-9,999   | Student Enrollment 10,000-24,999   | Student Enrollment 25,000 or more                    |
| <b>Minimum Education Standards</b><br>(required)<br><i>(new directors only)</i>  | Bachelor's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field.   | Bachelor's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;                                       | Bachelor's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;                                       | Same requirements as for 10,000-24,999 size category |
|  | OR   | OR   | OR   |  |
|  | Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, <u>and</u> a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business;   | Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, <u>and</u> a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business; | Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, <u>and</u> a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business. |  |
| OR   | OR   | OR   |  |  |
| Associate's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; <u>and</u> at least one year of relevant school nutrition programs experience; | Associate's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; <u>and</u> at least one year of relevant school nutrition programs experience. |  |  |  |

|  |   |   |  |  |
|--|---|---|--|--|
|  | OR<br>High school diploma (or GED) <u>and</u> 5 years of relevant experience in school nutrition programs.  |   |  |  |
| <b>Minimum Education Standards</b><br>(preferred)<br><i>(new directors only)</i>     | Directors hired without an associate's degree are strongly encouraged to work toward attaining associate's degree upon hiring.                            | Directors hired without a bachelor's degree strongly encouraged to work toward attaining bachelor's degree upon hiring. | Master's degree, or willingness to work toward master's degree, preferred.<br><br>At least one year of management experience, preferably in school nutrition, strongly recommended.<br><br>At least 3 credit hours at the university level in food service management plus at least 3 credit hours in nutritional sciences at time of hiring strongly preferred. | Same requirements as for 10,000-24,999 size category |
| <b>Minimum Prior Training Standards</b><br>(required)<br><i>(new directors only)</i> | At least 8 hours of food safety training is required either 3 years prior to their starting date or completed within 30 days of employee's starting date. |   |  |  |

| <b>Proposed Rule Annual Continuing Education/Training for All Local Educational Agency Sizes</b>                          |  |
|---|--|
| <b>New and Current Directors</b>  | <p>Each year, at least 15 hours of annual continuing education/training.</p> <p>Includes topics such as:</p> <ul style="list-style-type: none"> <li>• Administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures).</li> <li>• Any other appropriate topics as determined by FNS.</li> </ul> <p>This required continuing education/training is in addition to the food safety training required in the first year of employment.</p> |
| <b>New and Current Managers</b>   | <p>Each year, at least 12 hours of annual continuing education/training.</p> <p>Includes topics such as:</p> <ul style="list-style-type: none"> <li>• Administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures).</li> <li>• The identification of reimbursable meals at the point of service.</li> <li>• Nutrition, health and safety standards.</li> <li>• Other topics, as specified by FNS.</li> </ul>                         |
| <b>New and Current Staff</b><br>(other than the director and managers) that work an average of at least 20 hours per week | <p>Each year, at least 8 hours of annual continuing education/training.</p> <p>Includes topics such as:</p> <ul style="list-style-type: none"> <li>• Free and reduced price eligibility.</li> <li>• Application, certification, and verification procedures.</li> <li>• The identification of reimbursable meals at the point of service.</li> <li>• Nutrition, health and safety standards.</li> </ul>  |

|  |  |
|--|--|
|  | <ul style="list-style-type: none"><li>• Other topics, as specified by FNS.</li></ul> |
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## II. Public Comments

The proposed rule was published in the Federal Register on February 4, 2014 (79 FR 6488) seeking to establish minimum hiring standards for the selection of State directors and local school nutrition program directors, and annual continuing education/training requirements for all school nutrition personnel effective July 1, 2015. The rule was posted for comment on [www.regulations.gov](http://www.regulations.gov) and the public had the opportunity to submit comments on the proposal during a 60-day period that ended April 7, 2014.

FNS appreciates the valuable comments provided by stakeholders and the public. We received 2,204 public comments that included 241 distinct submissions and 1,963 identical form letters that were submitted by individual commenters. Although not all commenters identified their group affiliation or commenter category, most comments were submitted by:

- SFA personnel – 96 comments;
- Associations (national, state, local and other) – 16 comments;
- State agencies – 14 comments;
- Nutritionists/dietitians – 7 comments;
- Advocate groups (national and state levels) – 6 comments; and
- Non-profit organizations – 4 comments.

To view all public comments on the proposed rule, go to [www.regulations.gov](http://www.regulations.gov) and search for public submissions under docket number FNS-2011-0030.

Overall, 110 public comments and 1,963 form letters voiced support for the proposal, and 93 public comments expressed opposition. Supporters stated that professional standards will advance the school nutrition profession and enhance the ability of personnel at all levels to successfully manage and operate the school meal programs. They affirmed that establishing professional standards will contribute to the recognition of the skills, professionalism, and dedication of school nutrition employees. Several organizations commended USDA for developing sensible hiring standards and continuing education/training requirements for State and local school nutrition professionals.

Opponents generally expressed concern about specific provisions, or showed misunderstanding of specific provisions that are being clarified in this final rule. Many of the opponents expressed concern about the feasibility of the requirements for small and rural SFAs, and others indicated that the proposal could create operational and financial hardships for all SFAs. Some argued the professional standards could potentially exclude otherwise qualified applicants from employment and limit the upward mobility of current school nutrition employees. Other commenters were not clearly in favor or opposed to the proposal but requested clarification on specific aspects of the proposal.

The following is a summary of the public comments by provision:

#### Hiring Standards

Public Comments: One hundred fifty-two commenters addressed the hiring standards for new school nutrition program directors in §210.30(b) of the proposed rule. FNS proposed hiring standards for four distinct LEA size categories: LEAs with 2,499 students or less, LEAs with 2,500-9,999 students, LEAs with 10,000-24,999 students, and LEAs with 25,000 or more students. In general, the proposed standards become more stringent as the LEA size increases to

ensure that the new school nutrition professionals have essential qualifications to manage and operate the school nutrition programs that impact a larger number of children. The proposed hiring standards consist of minimum educational standards that include the following options:

- Bachelor's degree with a major in specific area (food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field), or
- Bachelor's degree with any major and a State-recognized certificate, or
- Associate's degree with major in specific areas and at least one year of experience in school nutrition programs (for LEAs with less than 10,000 students), or
- High school diploma or GED and at least five years of experience in school nutrition programs (for LEAs with less than 2,500 students).

In general, commenters expressed support for establishing hiring standards for the professionals who administer and operate the school nutrition programs at the SFA level, but many commenters voiced concerns about specific provisions or sought clarification.

Commenters stressed the importance of school nutrition experience, and noted that an appropriate combination of education and experience is important to avoid excluding otherwise qualified applicants. Some stated that an academic degree alone may not be sufficient to run a school nutrition program. Since the proposed rule did not specify work experience for all pathways leading to the position of school nutrition program director, a few commenters expressed concern that candidates with a degree but no valuable school nutrition experience will apply for these positions.

Providing current SFA program directors the opportunity for upward mobility was another concern raised by commenters. A commenter offered alternatives to a degree, including the

suggestion that a significant number of years of work experience be considered acceptable in place of a degree. Another suggestion was that the School Nutrition Association certification or a similar certification be accepted as an alternative to an academic degree.

Many commenters expressed concerns about the hiring standards for small and rural SFAs. Some argued that higher compensation should support stricter hiring standards, and that many small SFAs do not have the resources to increase salaries to attract qualified applicants. Commenters also stated that stricter standards could decrease the candidate pool, which would make hiring more difficult. A commenter also stated that the hiring requirements could adversely affect small and rural communities that depend on the school nutrition program for a source of part-time jobs. Other obstacles mentioned were the rising costs of a college education and the limited availability of community colleges in rural areas.

A commenter suggested delaying the implementation of the regulations to provide State agencies and SFAs sufficient time to modify their hiring procedures. The commenter expressed concern that the proposed hiring standards could be inconsistent with hiring standards already negotiated and in place in different LEAs.

Seven commenters addressed the proposed hiring standards for new State directors of school nutrition programs and for new State directors of distributing agencies in §235.11(g)(1) and §235.11(g)(2), respectively, of the proposed rule. The proposed hiring standards for both State director positions consist of a bachelor's degree; extensive knowledge and experience in specific areas (such as institutional food service operations, management, business and/or nutrition education); and specific skills and abilities to lead and supervise people. For the State director of school nutrition program, FNS proposed requiring a specific major in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts,

business, or a related field. The proposed rule does not specify a major for the State director of distributing agencies.

In general, commenters voiced support for establishing hiring standards for State directors. However, one commenter requested a definition for director of distributing agencies positions affected by this rule, and also said that the hiring standards for the State director of distributing agencies should focus on relevant experience, as the knowledge and skills required for that position are more likely to be acquired through experience than through academic study. Another commenter suggested that the hiring standards for the State director of distributing agencies should specify a major in business, food service, or similar field, instead of a bachelor's degree in any major. Some commenters said that the hiring standards for both State director positions should be similar. A few commenters suggested establishing hiring standards for the State agency staff that monitors and provides technical assistance to the local program operators.

FNS Response: FNS recognizes that school nutrition employees are a dedicated and resourceful workforce determined to perform a wide range of job duties. The NSLP and SBP have grown considerably and changed significantly since their inception and school nutrition personnel at the State and local levels have contributed significantly to Program accomplishments. By requiring hiring standards for new State and SFA school nutrition directors, the CNA seeks to ensure that the most qualified candidates are selected for these key positions. As recognized by Congress in establishing hiring standards for these positions, the requirements will help guarantee that those administering and operating the school nutrition programs in the years ahead have a solid foundation to help them undertake new challenges. The hiring standards are expected to create a strong team of school nutrition professionals that will be able to find new ways to improve Program meals, access, and integrity in schools nationwide.

This final rule provides that current State agency and school nutrition program directors will be grandfathered in, and thus, will not be required to meet the new hiring standards and may continue to serve in their current positions.

For the position of school nutrition program director, this final rule sets minimum hiring standards for only three distinct LEA size categories: LEAs with 2,499 students or less, LEAs with 2,500-9,999 students, and LEAs with 10,000 or more students. The final rule does not set separate hiring standards for LEAs with 25,000 or more students because such standards are no different than the proposed standards for LEAs with 10,000-24,999 students. Overall, as the LEA size increases, a higher educational level for new hires is required to match the level of responsibility and complexity of the food service system.

This final rule does not require prior program experience if a new school nutrition program director has attained a bachelor's degree or higher with a specific academic major in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field. This is in consideration of the possibility that some well-qualified candidates may apply for a director position shortly following college graduation. Prior experience is required for other hiring pathways established by this rule.

The hiring pathways for new SFA directors in the three specified LEA sizes remain as proposed except for a few modifications to the required program experience to reflect the needs and complexities of different LEAs. Section 210.30(b)(1) of this final rule establishes the following hiring pathways for school nutrition program directors:

- Bachelor's degree with a major in specific areas (for all LEA sizes);
- Bachelor's degree in any academic major plus a State-recognized certificate (for all LEA sizes) ;

- Associate's degree with a specific major plus two years, instead of the proposed one year, of relevant school nutrition experience (for LEAs with 2,500-9,999 students);
- Associate's degree with a specific major plus one year of relevant school nutrition experience (for LEAs with 2,499 students or less); and
- High school diploma (or GED) plus three years (instead of the proposed five years) of relevant school nutrition experience (for LEAs with 2,499 students or less).

This final rule also adds two hiring pathways for individuals who have a bachelor's degree in any major plus valuable program experience, and are seeking to serve as SFA directors in mid-size LEAs and large-size LEAs. For LEAs with 2,500-9,999 students, a bachelor's degree in any academic major and at least two years of relevant school nutrition program experience is now accepted. For LEAs with 10,000 or more students, a bachelor's degree in any major and at least five years' experience in management of school nutrition programs is also accepted. These additional pathways are intended to expand the employment opportunities for applicants with significant program experience.

This final rule also responds to the concerns of commenters regarding the feasibility of the proposed hiring standards for small LEAs. The fourth School Nutrition Dietary Assessment Study (SNDA IV), which was conducted during school year 2011-2012, indicated that in LEAs with 2,499 or less students, 34 percent of current directors have an associate's degree or higher; 27 percent have completed some college without a degree; and 27 percent hold a high school diploma. Based on this information, FNS proposed several hiring pathways for small LEAs that include two options that require a bachelor's degree, one option that requires an associate's degree plus one year of school nutrition experience, and one option that requires a high school diploma (or GED) plus five years of experience. As stated earlier, to facilitate implementation of

the professional standards, this final rule reduces the required years of experience for candidates with a high school diploma from five years to three years of relevant program experience. The hiring pathways for LEAs with 2,499 or less students are established in §210.30(b)(1)(i) of the final rule.

In response to commenters' concerns over the ability to hire SFA directors for very small LEAs, such as those in rural areas or with less than 500 students, this final rule allows the State agency discretion to approve an LEA's hiring of a school nutrition program director that has a high school diploma (or GED) but less than the required three years of relevant program experience. The LEA interested in hiring an applicant with less than the required three years of relevant program experience must demonstrate to the State agency that the applicant meets the minimum educational standard and, therefore, is otherwise qualified for the position and the best available candidate. This hiring flexibility, set forth in §210.30(b)(1)(i)(D) of the final rule, is expected to benefit Residential Child Care Institutions and Tribal schools that may face unique challenges in finding experienced candidates.

Regarding career mobility for current program directors within a state or between states, this final rule allows grandfathered directors to remain in their positions, or to transfer to another position in an LEA of the same size category. The ability to transfer is intended to allow current employees an opportunity to enhance their Program expertise by moving to another position for which they are qualified and determined to be the best candidate. The rule also gives current directors the flexibility to move to a position in a larger SFA (within the same LEA size category). However, to move to a larger LEA size, for example to move from an LEA with 4,000 students (the 2,500 – 9,999 category) to an LEA with 12,000 students (the 10,000 or more category), a grandfathered program director must meet the hiring standards established for the

larger LEA. As noted earlier, as the LEA size increases, the minimum educational level also increases to match the demands and complexity of the job.

The proposed hiring standards for State director of school nutrition programs in §235.11(g)(1), and for State director of distributing agencies in §235.11(g)(2) were generally well received by commenters. Although FNS recognizes that in a few States both roles are performed by one individual, the final rule retains separate hiring standards. The educational requirement for the State director of school nutrition programs specifies a bachelor's degree with a specific academic major, while a bachelor's degree in any major is allowed for the State director of distributing agencies.

A few comments revealed possible misunderstanding of the hiring standards for State directors. To clarify, the final rule's hiring standards for both State director positions allow the selection of a job applicant that has a bachelor's degree with a major in business, and knowledge and experience in areas such as management and business. Also, for both State director positions, the State agency may require years of relevant program experience in addition to the minimum criteria established by this final rule. This final rule does not include hiring standards for State agency staff because section 7 of the CNA does not authorize FNS to establish such requirements.

Commenters suggested different hiring scenarios and asked how the hiring standards would apply. In general, if an individual is hired to perform more than one school nutrition job, the hiring standards for the higher level position will apply. For example, if an individual will serve as both school nutrition program director and as program manager, the hiring requirements for the program director position will apply. If a program director will oversee more than one SFA, the sum of the student enrollment determines the hiring requirements. In such a case, the new

program director will have to meet the hiring requirements for the LEA size that reflects the total student enrollment. If an individual will serve in two completely different capacities, such as school principal and school nutrition program director, the hiring standards for the appropriate LEA size will still apply and must be met. At the discretion of the State agency, temporary, or “acting” school nutrition program directors expected to work more than 30 business days may be required to meet the hiring standards. FNS recognizes that this final rule does not address every unique hiring situation. FNS will provide guidance and work with the State agencies to address unique situations at the State and SFA levels as they are identified through implementation.

The hiring standards established by this final rule are effective July 1, 2015, as proposed. Most commenters did not oppose the proposed implementation date, or instead requested a different implementation date. The hiring standards are for new hires only, and are not significantly different from the educational levels that most current directors nationwide have already attained. Therefore, delaying implementation of the hiring standards is not reasonable.

One stakeholder noted that modifying hiring procedures takes time, and suggested the effective date of the rule be at least two years following publication. The commenter expressed concern about the rule’s effective date and the impact on hires made for the school year 2015-2016. To address this concern, FNS will give the State agencies and LEAs the flexibility to hire a candidate that meets the State/local employment requirements in place prior to July 1, 2015, provided the State agency or LEA advertises a vacancy prior to the final rule’s effective date.

To facilitate implementation of the hiring standards, FNS will work closely with the State agencies to examine unique situations and determine the appropriate course of action. Accordingly, this final rule codifies the hiring standards for school nutrition program directors in §210.30(b)(1), and the hiring standards for State directors in §235.11(g)(1) and §235.11(g)(2).

### Prior Food Safety Training

Public Comments: Thirty commenters addressed the hiring standard in §210.30(b)(1)(v) of the proposed rule that would require only new school nutrition program directors to have completed at least eight hours of food safety training within three years prior to their starting date, or within 30 calendar days of their starting date. Some commenters said that food safety in school meals is extremely important and, therefore, new and existing SFA directors should be required to complete this food safety training. A few commenters recommended the requirement be extended to all SFA employees. Other commenters said that new SFA directors should have more than 30 days from the date of hiring to complete the eight hours of food safety training. Suggested timeframes included 60 days, 90 days, 6 months, 1 year, and until the employee is no longer on probation.

Many commenters suggested that the food safety training certification period be extended from three to five years, consistent with ServSafe (the food and beverage safety training and certificate programs administered by the National Restaurant Association). Several suggested that ServSafe be considered acceptable food safety training, and a few said that annual food sanitation training should be sufficient. A commenter also addressed jurisdictional considerations regarding food safety regulations in Tribal Nations.

FNS Response: FNS agrees with commenters that food safety is critical for the school nutrition programs. This final rule retains the proposed food safety training for new school nutrition program directors but extends the certification period from three to five years, as suggested by commenters. This change is consistent with ServSafe, which is an existing, national food and beverage safety training and certificate program. New directors that have not

completed at least eight hours of food safety training within five years prior to their starting date must complete the required training within 30 calendar days of their starting date. FNS is not extending the 30-day period for allowing completion of food safety training for new hires because food safety training is critical to ensure safe school meals. The State agencies have discretion to impose stricter standards and, therefore, may require current school nutrition program directors, regardless of their starting date, and all employees involved in food handling to be certified in food safety every five years. Accordingly, this final rule codifies the prior food safety requirement for new school nutrition program directors in §210.30(b)(1)(v).

A few commenters discussed unique scenarios, including how to apply the prior food safety training requirement to an individual that serves in two completely different capacities, such as school principal and school nutrition program director. FNS will work with the State agencies to address unique hiring situations as they come up during implementation. In addition, we will continue existing regular conversations with Tribal Nations to clarify any issues pertaining to implementation of the hiring requirements in school meal programs operated on Indian reservations.

### Training Standards

Public Comments: Seventy-nine commenters addressed the annual continuing education/training requirements for school nutrition program directors in §210.30(b)(3) of the proposed rule, 58 commenters discussed the training requirements for managers in §210.30(c), and 105 commenters discussed the training requirements for staff (including those working less than 20 hours per week) in §210.30(d). Above all, commenters recommended that the required training on the topics specified in the proposal be job-specific. They also asked that FNS clarify

what activities count as training, and suggested that non-classroom activities such as annual conferences, self-study, on-the-job training, and SFA/FNS annual meetings count as training. Some also said that SFA directors should determine the training needs of their managers and staff. A few commenters suggested that only staff that are directly involved in food production be required to receive training.

Commenters also expressed concern about the required number of annual training hours and the staff's availability to receive training. Several said that the required training hours are too burdensome, training could take too much time away from work, and it is difficult to find substitutes to assist during the training periods. Suggested annual training hours ranged from 4-12 hours for program staff, and from 5-8 hours for program managers. Several commenters stressed that employees should not be expected to complete training outside of their normal work hours. A few commenters opposed the flexibility to allow the school nutrition program directors to count training offered to staff toward their own required training hours. They said that SFA directors who are already familiar with the training topics would not learn anything new. Many commenters voiced concerns about the feasibility of the proposed training requirements for employees in small SFAs. They said that college and internet access are not easily accessible to many employees in rural areas.

Commenters asked FNS to clarify the required training topics for SFA personnel. Some said the proposed training topics are too specific and not applicable to all staff. A commenter recommended that topics such as budget, and staff management and training be included in the required training topics for school nutrition program directors. Another suggested training on communication, cultural conflicts, conflict resolution, marketing, advocacy, and other topics.

Commenters also asked FNS to clarify the allowable training formats/types and the acceptable training sources. They recommended that a variety of training formats, such as online and classroom training, self-study, on-the-job training, FNS webinars, conferences, etc. be allowed.

The use of the school foodservice fund to pay for annual continuing education/training expenses was a concern raised by commenters. They argued that that the proposed annual training requirements could be financially burdensome. In addition, many of them opposed the prohibition in §210.30(f) of the proposed rule that disallows the use of food service funds to pay for the cost of college credits to meet the hiring standards.

Commenters also asked FNS to clarify how the training requirements will apply to staff working less than 20 hours per week, employees hired mid-year, temporary and substitute workers, employees with multiple roles, and volunteers. A few commenters supported prorating the required training hours for employees that work less than 20 hours per week. However, a commenter said it is difficult to predict if volunteers and substitutes will work 20 hours and be subject to the training requirements. Two commenters suggested that USDA collect and share data on the numbers and/or percentages of staff averaging less than 20 hours of work or less per week in order to determine required training hours for part time staff. They suggested that if a large percentage of cooks/servers work this reduced number of hours, those employees be required to meet the requirements for full-time workers to ensure the healthfulness and safety of school meals.

FNS Response: Annual, job-specific training is the best way to ensure that school nutrition program personnel at all levels maintain and upgrade their skills to meet the needs of students, and to effectively implement Program requirements. We understand that State agencies and

SFAs typically hold trainings prior to the beginning of the school year. We anticipate that most of the training topics and hours for school nutrition program directors, managers, and staff will be completed at that time to minimize work disruptions while school is in session, and to ensure that all employees understand Program requirements to adequately perform their duties.

However, employees may also receive training at other times during the year and apply it to their annual training requirement. For example, during the school year staff may receive training on the operation of new equipment, on new policies as they emerge, or when an administrative review identifies issues that need correction.

In response to commenters' concerns about the feasibility of the training hours required at the SFA level, this final rule makes several important changes to the proposed rule. First, the final rule reduces the required annual training hours as follows:

- School nutrition program director – 12 annual training hours (15 hours proposed).
- School nutrition program managers – 10 annual training hours (12 hours proposed).
- School nutrition program staff – 6 annual training hours (8 hours proposed).

Second, to facilitate implementation of the requirements, this rule phases in the training hour requirements for directors, managers, and staff. In school year 2015-2016, the first year of implementation, program directors must complete 8 hours of training; program managers, 6 hours of training; and program staff, 4 hours of training. Training received three months prior to July 1, 2015, may count toward the first year training requirements for all directors, managers, and staff. Therefore, training received on or after April 1, 2015, may count toward the training requirements for school year 2015-2016.

Beginning school year 2016-2017, the second year of implementation, program directors must complete the 12 hours of annual training, program managers must complete 10 hours, and

staff must complete 6 hours. Accordingly, this final rule updates and codifies the required annual training hours for program directors in §210.30(b)(3), for program managers in §210.30(c), and for program staff in §210.30(d).

Third, for program staff working less than 20 hours per week, this final rule establishes a uniform requirement of 4 hours of annual training, instead of requiring that the annual training hours be proportional to the hours worked. Establishing a uniform number of training hours for this group of employees is intended to keep the training requirements simple and feasible for all LEAs, as requested by commenters. Although suggested by a commenter, FNS will not collect data on the number or percentage of employees working less than 20 annual training hours per week as part of this rulemaking. If necessary, such data would be collected outside of the regulatory process, most likely as part of our regular program evaluation efforts.

For flexibility, all employees hired January 1 or later during any school year are only required to complete at least half of the required training hours for their position – director, manager, or staff. In addition, this final rule gives the State agencies discretion to decide if acting personnel, temporary workers and volunteers must complete annual training. FNS strongly encourages health and safety training for all staff involved in food handling and for others, as applicable.

Fourth, this final rule requires annual training for all employees at the SFA level, but gives the State agency discretion to assess compliance with the training requirements over a period of two school years. If allowed by the State agency statewide, program directors, managers, and staff may complete the required training hours over a two-year period, provided that some training hours are completed each school year. FNS is providing this flexibility because some

commenters indicated that the ability to participate in training activities annually is determined by different factors, and may vary from year to year.

It is important to stress that while some carryover may be allowed by the State agency, school nutrition employees are expected to complete some training each school year as required by this final rule. Allowing SFA employees to carry over excess training hours to another school year is intended for operational flexibility and to facilitate compliance with the professional standards. For example, a program manager is required to complete 10 hours of annual training. Over a two-year period, the manager may complete 9 hours of training through an annual conference, and 11 hours of online training the following school year. FNS will provide more guidance on this flexibility, but it is important that the SFA retain documentation to show during an administrative review how the SFA employees have complied with the total required training hours over the two year period.

An SFA director or manager may count the training offered to his/her staff toward part of his/her own annual training requirement. This flexibility is allowed because program directors must keep learning in order to communicate and help implement new policies and procedures through the training offered to SFA personnel. Program policies and procedures are expected to continue to evolve to reflect advances in nutrition science and to incorporate new statutory requirements intended to enhance Program meals, access and integrity. Therefore, preparing for and imparting knowledge can help an SFA director or manager cement his/her knowledge of the school meal programs.

With regard to the list of training topics for SFA directors, section 7(g)(2) of the CNA requires training in administrative practices (including application, certification, verification, meal counting, and meal claiming procedures), nutrition, health and food safety standards and

methodologies, and any other topics, as determined by FNS. These training topics must be offered to the SFA personnel, as applicable. State directors are not required to seek approval from FNS before receiving or providing training, but must keep records to demonstrate training completion. The training topics specified in §210.30(b)(3), §210.30(c) and §210.30(d) of this final rule must be completed annually, or as needed, in order to be informed of the most current policies and regulatory requirements, and to refresh existing knowledge. Each individual employee at the SFA level must receive and complete training on the topics or areas applicable to his/her job, or as required by FNS.

The amendments made to the CNA by the HHFKA give the Secretary authority to require any other appropriate training topic to address critical issues, such as Program integrity. Therefore, the Secretary may require, as needed, that SFA employees complete specific training topic(s) or course(s) identified by FNS to address crucial Program needs. FNS does not anticipate that such action will take place annually, but may take such action in response to important Program issues. If a specific training topic or course is required by FNS, it will be available at low cost or no cost, and in a variety of formats. Accordingly, this final rule codifies the training requirements for State directors of school nutrition programs and distributing agencies in §235.11(g)(3); and the training requirements for school nutrition program directors, managers and staff in §210.30(b)(3), §210.30(c), and §210.30(d), respectively.

As requested by commenters, this final rule also allows a variety of training formats, both online (webinars, interactive online sessions, etc.) and in-person (classroom training, in-service training, seminars, public speakers, etc.). Training from a variety of sources is acceptable, including the National Food Service Management Institute (NFSMI), in-house/SFA, State agencies, FNS Team Nutrition, the School Nutrition Association (SNA), professional

associations/organizations, and reputable commercial vendors. FNS is working in partnership with the NFSMI to make free or low-cost training available in a variety of formats. More than 450 existing training resources in a variety of formats are already listed on the professional standards website (<http://professionalstandards.nal.usda.gov>). Any of these resources are considered appropriate to meet the requirements of this rule. School nutrition staff may find training that meets their learning needs by conducting advanced searches for specific topic areas, training format, training length, learning objectives, and training location.

Several commenters addressed the use of school food service funds to pay for employee training. Annual continuing education/training is an allowable use of the nonprofit school food service account and of State Administrative Expense funds. The training costs must be reasonable, allocable, and necessary in accordance with the cost principles set forth in 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

However, the cost of college credits incurred by an individual to meet the hiring standards for the positions of State director or SFA director is not an allowable expense. Meeting the hiring standards is the sole responsibility of a job applicant. Accordingly, this final rule codifies in §210.30(f) and in §235.6(a)(a-1) the prohibition regarding the payment of college credits to meet hiring standards. To clarify, annual continuing education/training of current school nutrition personnel should be encouraged and may be supported by the State agency and the SFA through available funds. And although funds may not be used to earn college credit to meet the hiring standards, the restriction on the use of funds does not apply to college courses required for annual continuing education/training purposes; in such cases, the State agency and the SFA may assess if the use of Program funds meets Federal standards.

With regard to the training for State director of school nutrition programs and State director of distributing agencies, this final rule retains the proposed requirement that State directors complete 15 hours of annual training in core areas such as nutrition, operations, administration, communications and marketing, as well as additional training topics and hours specified by FNS annually, as necessary. Only three commenters addressed this provision and they mostly agreed with the proposed requirement. FNS wishes to clarify that we will only require State directors to complete additional training topics and hours if necessary to address critical Program issues, such as Program integrity. In addition, when an individual performs both State agency functions, the annual training requirement remains 15 hours because the core areas of training are the same. Accordingly, the annual training requirement for State directors is codified in §235.11(g)(3) of the final rule.

### Definitions

Public Comments: Ten commenters addressed the proposed definitions for “School nutrition program directors,” “School nutrition program managers,” and “School nutrition program staff” set forth in §210.2. Some asked FNS to provide more specific definitions. Others stated that in small and rural SFAs, an individual often performs more than one job. A commenter asked FNS to provide a definition for “State director of distributing agencies.”

FNS response: FNS recognizes that there are varying structures within each SFA; therefore, the proposed definitions for directors, managers, and staff are intended to be general and describe the function/role in broad terms to be applicable to most SFAs. They also provide some distinction between the three levels to help districts determine which category employees or groups of employees would fall under each definition. The definition of “School nutrition

program directors” refers to the local individuals directly responsible for the management of the day-to-day operations of the school nutrition programs for all participating schools under the jurisdiction of the SFA. The definition of “School nutrition program managers” refers to those individuals directly responsible for the day-to-day operations of the school nutrition programs for a participating school(s). “School nutrition program staff” refers those local individuals without managerial responsibilities who are involved in routine operations of the school nutrition programs for a participating school(s). Program staff may include, for example, those individuals who prepare and serve meals, process transactions at point of service, and review the free/reduced price applications. These definitions apply whether or not an SFA is operated by a food service management company. If a new employee will work in more than one position, only the higher level position requirements apply. Accordingly, this final rule codifies the proposed definitions in §210.2.

This final rule does not define “State director of school nutrition program” and “State director of distributing agencies.” Due to varying staffing protocols, vacancies or for other reasons, an individual performing director duties may have a different title, or sometimes performs both roles fully or partially. In light of these different scenarios, FNS believes, in this case, it is not practical to set definitions that cannot fully describe the broad array of diverse situations. It is more important to specify the responsibility for administration of the school nutrition and USDA Foods programs as a reference for who is subject to the requirements, regardless of the job title they may hold in a particular State.

We wish to clarify that the standards apply to those responsible for the administration of the NSLP, SBP, and the distribution of USDA Foods at the State level. Although we recognize that sometimes the individual responsible for the distribution of USDA Foods might not have a

position equivalent to that of the State director of school nutrition programs, proper administration of the distribution of USDA Foods is critical to the effective and efficient operations of the school meal programs, and requires the education and training proposed. Accordingly, the final rule adds a clarification in the description of a State director as the person responsible for the administration of the NSLP, SBP, and/or the distribution of USDA donated foods at the State level in the opening statements of §235.11(g)(1) and §235.11(g)(2).

### Recordkeeping Requirements

Public Comments: Twenty-three commenters discussed the proposed recordkeeping requirements in §210.15(b)(8), §210.20(b)(15), and §235.11(g)(5). Commenters asked FNS to clarify the recordkeeping period to demonstrate compliance with the professional standards. Several of these commenters said the recordkeeping burden is underestimated because, in their view, documenting that each employee receives annual training will result in additional paperwork for SFAs. Some commenters also asked FNS to clarify who is responsible for tracking the hours of training completed by the school nutrition program director, manager and staff, and what documentation is acceptable. Several suggested that FNS develop a tracking mechanism to assist the SFAs.

FNS Response: It appears there was misunderstanding regarding the proposed recordkeeping requirements. FNS estimated a one-time recordkeeping activity of 15 minutes per respondent (State agencies, SFAs/LEAs, and schools) to document compliance with annual training at the State and local levels. FNS understands that most State agencies and SFAs conduct annual training on a variety of topics prior to the beginning of the school year. In addition, training is sometimes offered on-the-job during the school year, or may be undertaken by an individual

employee. We envision minimum recordkeeping associated with these types of training activities. FNS is developing an optional downloadable tool to help the school nutrition program director keep track of the training activities at the SFA level. With this tool, an SFA may generate annual records for verification of training completed. Documentation such as copies of the training agenda, sign-up sheets, and other paper documents would also be acceptable. Each SFA decides how to maintain the records to document training completion.

The school nutrition program director is ultimately responsible for demonstrating, during the administrative review, that the SFA is in compliance with the professional standards. Professional standards records must be retained for a period of three years, consistent with other recordkeeping requirements in 7 CFR part 210. Accordingly, this final rule codifies the recordkeeping requirements in §210.15(b)(8), §210.20(b)(15), and §235.11(g)(5).

#### SFA Oversight

Public Comments: Twenty-seven commenters addressed the requirement in §210.30(g) of the proposed rule, which stipulates that the SFAs must document compliance with the applicable professional standard requirements annually. The provision specifies that documentation must be sufficient to demonstrate during an administrative review that the program director meets the hiring and training standards, and that each employee has completed the applicable required training no later than the end of each school year. Many of the commenters asked how to document compliance with the training requirements and handle cases of non-compliance.

FNS Response: SFAs must encourage and facilitate compliance with the professional standards. As such, SFAs must monitor and document an employee's continuing education/training progress periodically throughout the year to ensure that each employee is or

will be in compliance with the training requirements by the end of each school year, and that the program directors meet the training and hiring requirements. FNS will issue guidance and disseminate best practices to encourage compliance with the professional standards. We are also developing a training tracking tool that can be used by individual employees or by managers or directors for their entire staff. Accordingly, this final rule codifies the SFA oversight requirement in §210.30(g).

### Administrative Reviews

Public Comments: Seven commenters addressed the provision in §210.18(h)(7) of the proposed rule that requires the State agency to monitor an SFA's compliance with professional standards as part of the general areas of the administrative review. Commenters asked FNS to explain the enforcement strategy and the documents needed to show SFA compliance with the requirements.

FNS Response: Monitoring an SFA's compliance with the professional standards will be addressed through an update to the Administrative Review Manual and related tools and forms for School Year (SY) 2015-2016. As part of the general areas of review, the State agency is expected to examine records that document completion of applicable hiring and continuing education/training requirements. Although FNS does not require one specific document, college transcripts or degrees for new hires, food safety certifications, training certificates, attendance sign-in sheets, and training agendas are all examples of documents that an SFA may submit to demonstrate compliance with the professional standards.

FNS recognizes that school year 2015-2016 may be a period of transition as establishing professional standards may involve significant changes for some SFAs. During this transition

period, State agencies are expected to focus on providing guidance and technical assistance to help SFAs move toward compliance. In the first year of implementation, State agencies should work closely with the SFAs experiencing challenges to help them solve unique issues. Accordingly, this final rule codifies the State agency's monitoring responsibilities in §210.18(h)(7).

### **Miscellaneous Issues Addressed by Commenters**

#### Grandfathering

Commenters addressed grandfathering, the practice of exempting existing personnel from the new requirements. Many commenters asked how existing employees will be grandfathered and for what duration. Some also addressed grandfathering and work mobility. Others expressed concern about the ability of existing employees to advance in their careers.

FNS supports grandfathering current State agency directors and school nutrition program directors from the hiring standards established by this final rule. These individuals have generally demonstrated their ability to capably perform their job duties. Therefore, current SFA directors will be able to remain in their positions or transfer to a similar position in another LEA of the same size category (student enrollment) without having to meet the new hiring standards. However, grandfathering does not apply to the continuing education/annual training standards because all personnel, at both the State and local levels, need annual continuing education/training to maintain or upgrade their skills.

#### State and local control of meal programs

A few commenters addressed the potential impact of the professional standards regulations on the State and local administration of the meal programs. They expressed concern that the professional standards may not be consistent with local hiring/training practices and procedures. A few mentioned a possible interference with existing union contracts.

FNS recognizes that the State agency and the local educational agency have administrative control of public or private nonprofit educational institutions within a defined area of the State. The State agency and SFA have legal authority to operate the Federal school meal programs and bear responsibility for the proper operation of these programs according to Federal regulations. The professional standards established by this final rule preempt existing State and local regulations, policies, etc. that may interfere with nationwide implementation of these new regulations. Prior to developing the proposed professional standards, FNS sought input from invited stakeholders representing a variety of State agencies, local educational agencies (both large and small), professional associations and other constituencies concerned with the school nutrition programs. The information shared by these groups regarding hiring criteria for State agency directors, minimum education and training requirements for school nutrition directors, and training requirements for school nutrition managers and staff were considered when drafting these professional standards regulations. FNS also considered the public comments received in response to the proposed regulations.

FNS does not expect that implementation of national professional standards will interfere with the State/local management of school meal programs. This final rule establishes minimum hiring standards and training requirements that are expected to increase the ability of the State and local operators to properly manage the meal programs. The regulations allow State agencies

and/or SFAs to establish their own professional standards, as long as such standards are not inconsistent with the minimum professional standards established by FNS.

Some commenters indicated that the professional standards may be in conflict with some labor union contract provisions. Professional standards requirements and the implementation timeframes provided in this rule are federal law and thus preempt such provisions. Should it be necessary, FNS will work with the State agencies to address unique issues as they are identified.

### **III. Summary of Changes to Proposal**

As explained earlier, FNS considered the commenters' concerns and suggestions and is updating parts of the proposal to focus more on school nutrition experience, and to facilitate nationwide implementation of the professional standards in all SFAs. The following is a summary of the changes and clarifications being made in this final rule.

#### Hiring Standards for SFAs

The final rule:

- Eases the hiring requirements for the small LEAs (2,499 or less students) by reducing the required school nutrition program experience (from five to three years) for applicants with a high school diploma. See §210.30(b)(1)(i)(D).
- Allows the State agency discretion to approve (for an LEA with less than 500 students) the employment of a candidate that meets the educational standards but has less than the required school nutrition program experience. See §210.30(b)(1)(i)(D).
- Establishes another hiring path for mid-size LEAs (2,500-9,999 students) that emphasizes relevant experience (two years of school nutrition program experience and a bachelor's degree with a non-specific academic major). See §210.30(b)(1)(ii)(C).

- Increases the required school nutrition experience (from one to two years) for applicants who have an associate’s degree with an academic major in specific areas and are seeking to work in a mid-size LEA (2,500-9,999 students). See §210.30(b)(1)(ii)(D).
- Provides another hiring path for large LEAs (10,000 or more students) that emphasizes relevant experience (five years of experience in managing school nutrition programs) and a bachelor’s degree with a non-specific academic major. See §210.30(b)(1)(iii)(C).
- Removes the proposed, separate hiring standards for LEAs with 25,000 or more students.
- Extends the effective period of the SFA director’s food safety certification from three to five years, and allows the State agency discretion to extend the requirement to current SFA directors (those hired prior to July 1, 2015) and other personnel, as appropriate. See §210.30(b)(1)(v).
- Allows the State agency discretion to require that acting school nutrition program directors that will serve for more than 30 days to meet the established hiring standards. See §210.30(b)(1)(iv).
- Allows the State agencies and LEAs the flexibility to hire qualified candidates who meet the hiring standards in place prior to July 1, 2015, if the positions were advertised prior to the effective date of this rule.
- Updates the summary chart to reflect the hiring standards for SFA directors implemented by this final rule. See §210.30(b)(2).

Annual Training Requirements for SFAs

The final rule:

- Phases in the required number of annual training hours for all school nutrition program personnel at the SFA level in school year 2015-2016 with a minimum of:
  - 8 hours of training for school nutrition program director - see §210.30(b)(3).
  - 6 hours of training for school nutrition program manager - see §210.30(c).
  - 4 hours of training for school nutrition program staff - see §210.30(d).
- Reduces the required number of annual continuing education/training hours for all school nutrition program personnel at the SFA level. The following required annual training hours apply beginning school year 2016-2017:
  - 12 hours of annual training for school nutrition program director - see §210.30(b)(3).
  - 10 hours of annual training for school nutrition program manager - see §210.30(c).
  - 6 hours of annual training for school nutrition program staff - see §210.30(d).
- Establishes a uniform, minimum requirement of 4 hours of annual training for all school nutrition program staff that work less than 20 hours per week. See §210.30(d).
- Clarifies that FNS has authority to require SFA directors, managers, and staff to complete specific training topics or courses, as needed, to promote Program integrity or to address other critical Program issues. See §210.30(b)(3), §210.30(c)(5) and §210.30(d)(6), respectively.
- Prorates the required training hours for employees hired mid-year. If hired January 1 or later, an employee must only complete half of the required training hours for that school year. See §210.30(e).
- Requires annual training for all SFA employees, but gives the State agency discretion to monitor an SFA's compliance with the requirements over a period of two years to allow operational flexibility at the local level. See §210.30(e).

- Gives the State agency discretion to require acting and temporary staff, substitutes and volunteers in an SFA to complete training in one or more of the topics listed in §210.30(d), as applicable, within 30 calendar days of their start date. See §210.30(e).
- Clarifies that school food service funds may be used to pay for annual training costs that are reasonable, allocable and necessary, but must not be used to pay for the cost of college credits incurred by an individual at the SFA to meet the hiring standards established by this rule. See §210.30(f).
- Specifies that the SFA director or another official with similar authority must document compliance with the professional standards established for the school nutrition program director, manager, and staff. See §210.30(g).

#### Hiring Requirements for State Agencies

The final rule codifies the proposed hiring requirements for State directors of school nutrition programs in §235.11(g)(1) and the proposed hiring requirements for State directors of distributing agencies in §235.11(g)(2). There are no changes to these specific proposed provisions.

#### Annual Training Requirements for State Agencies

The final rule:

- Clarifies that State agency funds may be used to pay for annual training costs for the State director, but must not be used to pay for the cost of college credits incurred by an individual to meet the hiring standards established by this rule. See §235.6(a)(a-1).

- Clarifies that FNS has authority to require State directors to complete additional training topics and/or hours specified by FNS, as needed, to promote Program integrity or to address other critical Program issues. See §235.11(g)(3).
- Clarifies that the State agency must ensure that State agency staff receives annual training. See §235.11(g)(4).
- Clarifies that the State director of school nutrition programs must offer the SFAs 18 hours of training in specific topics, including topics identified by FNS as needed, to promote Program integrity or to address other critical Program issues. See §235.11(g)(4)(i).
- Clarifies that the State director of distributing agencies must provide the staff, or ensure staff receives, training in specific topics, including topics identified by FNS, as needed, to promote Program integrity or to address other critical Program issues. See §235.11(g)(4)(ii).

#### Recordkeeping Requirements for SFAs and State Agencies

There are no changes to the proposed recordkeeping requirements. The final rule requires recordkeeping for a period of three years, which is consistent with other recordkeeping requirements established in Part 210. See §210.15(b)(8), §210.20(b)(15) and §235.11(g)(5).

#### Definitions

There are no changes to the proposed definitions. The final rule codifies proposed definitions for “School nutrition program directors,” “School nutrition program managers,” and “School nutrition program staff” in §210.2.

#### **IV. Professional Standards Requirements: Summary Charts**

This final rule establishes the following hiring standards for new State agency directors:

| Summary of Hiring Standards for New State Agency Directors                      |  |   |
|---|--|---|
|   | State Director of School Nutrition Program   | State Director of Distributing Agencies     |
| <b>Minimum Education Standards</b><br>(required)<br><i>(new directors only)</i> | A bachelor's degree with an academic major in areas including food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field | A bachelor's degree with any academic major |
| <b>Knowledge &amp; Experience</b>   | Extensive relevant knowledge and experience in areas such as institutional food service operations, management, business, and/or nutrition education   |   |
| <b>Skills &amp; Abilities</b>   | Additional abilities and skills needed to lead, manage, and supervise people to support the mission of Child Nutrition Programs  |   |

This final rule establishes the following annual continuing education/training standards for all State agency directors:

| Summary of Training Standards for All State Agency Directors  |  |
|---|--|
| State Director of School Nutrition Programs   | State Director of Distributing Agencies  |
| <ul style="list-style-type: none"> <li>Each school year, must complete at least 15 hours of annual continuing education/training in core areas, such as nutrition, operations, administration, communications, and marketing. Additional hours and topics may be specified by FNS annually, as necessary.</li> <li>Must also provide or ensure that State agency staff receives annual continuing education/training.</li> <li>Must provide the SFAs at least 18 hours annually of training in topics such as administrative practices (training in application, certification, verification, meal counting and meal claiming procedures); the accuracy of approvals for free and reduced price meals; the identification of reimbursable meals at the point of service; nutrition; health and food safety standards; the efficient and effective use of USDA foods; and any other appropriate topics, as determined by FNS, to ensure program compliance and integrity.</li> </ul> | <ul style="list-style-type: none"> <li>Each school year, must complete at least 15 hours of annual continuing education/training in core areas, such as nutrition, operations, administration, communications, and marketing. Additional hours and topics may be specified by FNS annually, as necessary.</li> <li>Must also provide or ensure that State agency staff receives annual continuing education/training in topics such as the efficient and effective use of USDA donated foods; inventory rotation and control; health and food safety standards; and any other appropriate topics, as determined by FNS, to ensure program compliance and integrity.</li> </ul> |

This final rule establishes the following hiring standards for new school nutrition program directors:

| Summary of School Nutrition Program Director Professional Standards by Local Educational Agency Size |   |   |   |
|--|---|---|---|
| Minimum Requirements for Directors   | Student Enrollment 2,499 or less  | Student Enrollment 2,500-9,999  | Student Enrollment 10,000 or more   |
| <b>Minimum Education Standards</b><br>(required)<br><i>(new directors only)</i>                      | Bachelor's degree, or equivalent educational experience, with academic major or concentration | Bachelor's degree, or equivalent educational experience, with academic major or concentration | Bachelor's degree, or equivalent educational experience, with academic major or concentration |

|   |   |   |  |
|---|---|---|--|
|   | <p>in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field.</p> <p>OR</p> <p>Bachelor’s degree, or equivalent educational experience, with any academic major or area of concentration, <u>and</u> a State-recognized certificate for school nutrition directors;</p> <p>OR</p> <p>Associate’s degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; <u>and</u> at least one year of relevant school nutrition programs experience;</p> <p>OR</p> <p>High school diploma (or GED) <u>and</u> 3 years of relevant experience in school nutrition programs.</p> | <p>in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;</p> <p>OR</p> <p>Bachelor’s degree, or equivalent educational experience, with any academic major or area of concentration, <u>and</u> a State-recognized certificate for school nutrition directors;</p> <p>OR</p> <p>Bachelor’s degree in any academic major <u>and</u> at least 2 years of relevant school nutrition programs experience.</p> <p>OR</p> <p>Associate’s degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; <u>and</u> at least 2 years of relevant school nutrition programs experience.</p> | <p>in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;</p> <p>OR</p> <p>Bachelor’s degree, or equivalent educational experience, with any academic major or area of concentration, <u>and</u> a State-recognized certificate for school nutrition directors;</p> <p>OR</p> <p>Bachelor’s degree in any major <u>and</u> at least 5 years experience in management of school nutrition programs.</p> |
| <p><b>Minimum Education Standards</b><br/>(preferred)<br/><i>(new directors only)</i></p>     | <p>Directors hired without an associate’s degree are strongly encouraged to work toward attaining associate’s degree upon hiring.</p>   | <p>Directors hired without a bachelor’s degree strongly encouraged to work toward attaining bachelor’s degree upon hiring.</p>  | <p>Master’s degree, or willingness to work toward master’s degree, preferred.</p> <p>At least one year of management experience, preferably in school nutrition, strongly recommended.</p> <p>At least 3 credit hours at the university level in food service management plus at least 3 credit hours in nutritional sciences at <u>time of hiring</u> strongly preferred.</p>   |
| <p><b>Minimum Prior Training Standards</b><br/>(required)<br/><i>(new directors only)</i></p> | <p>At least 8 hours of food safety training is required either not more than 5 years prior to their starting date or completed within 30 calendar days of employee’s start date.</p>  |   |  |

This final rule establishes the following annual continuing education/training requirements for all school nutrition program directors, managers, and staff:

|   |
|---|
| <p><b>Summary of Required Minimum Continuing Education/ Training Standards for All Local Educational Agency Sizes</b></p> |
|---|

|   |  |
|---|--|
| <b>New and Current Directors</b>  | <p>Each year, at least 12 hours of annual continuing education/training.</p> <p>Includes topics such as:</p> <ul style="list-style-type: none"> <li>• Administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures), and</li> <li>• Any specific topics required by FNS, as needed, to address Program integrity or other critical issues.</li> </ul> <p>This required continuing education/training is in addition to the food safety training required in the first year of employment.</p> |
| <b>New and Current Managers</b>   | <p>Each year, at least 10 hours of annual continuing education/training.</p> <p>Includes topics such as:</p> <ul style="list-style-type: none"> <li>• Administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures),</li> <li>• The identification of reimbursable meals at the point of service.</li> <li>• Nutrition, health and safety standards, and</li> <li>• Any specific topics required by FNS, as needed, to address Program integrity or other critical issues.</li> </ul>         |
| <b>New and Current Staff</b><br>(other than the director and managers) that work an average of at least 20 hours per week | <p>Each year, at least 6 hours of annual continuing education/training.</p> <p>Includes topics such as:</p> <ul style="list-style-type: none"> <li>• Free and reduced price eligibility,</li> <li>• Application, certification, and verification procedures,</li> <li>• The identification of reimbursable meals at the point of service.</li> <li>• Nutrition, health and safety standards, and</li> <li>• Any specific topics required by FNS, as needed, to address Program integrity or other critical issues.</li> </ul>  |
| <b>New and Current Part-Time Staff</b><br>(working less than 20 hours per week)   | <p>Each year, at least 4 hours of annual continuing education/training (regardless of number of part-time hours).</p>  |

## V. Implementation Resources

To assist with implementation of the professional standards, USDA has established a website (<http://professionalstandards.nal.usda.gov>) that provides an extensive database of training opportunities and resources covering the four core training areas: nutrition, operations, administration, and communications/ marketing. Information on specific training objectives and training topics in each area will be available on the website as well. School nutrition program personnel may conduct advanced searches within the database to identify free or low-cost training opportunities and resources in a variety of formats. On-line and in-person trainings are included in the database. Sources of training include NFSMI, State agencies,

universities/colleges, associations, and other groups. In addition, FNS is developing a certificate system to help SFAs recognize various levels of training achievement. Details about the certificate system will be provided separately.

To assist individuals in tracking their training, a downloadable tool will be available for tracking the training individuals have completed. It can be used by individual employees or by managers or directors for their entire staff. State agencies will find the tool helpful when they complete the administrative reviews.

A Professional Standards Guide will contain all the essential information needed to understand the professional standards requirements for school nutrition employees at all levels. It will be available in hard copy as well as on the internet. Additional materials for informing school officials about the new standards are being developed as well.

In addition, USDA will award competitive grants to State agencies to assist with implementation of the professional standards requirements. Up to \$150,000 may be requested per State agency for the anticipated funding period of October 1, 2015- September 31, 2017.

## **VI. Procedural Matters**

### **Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

#### Regulatory Impact Analysis

This rule has been designated as not significant by the Office of Management and Budget; therefore, a Regulatory Impact Analysis is not required.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it has been determined that this final rule will not have a significant impact on a substantial number of small entities. The final rule will establish hiring standards for local educational agencies of various sizes (2,499 or less students, 2,500-9,999 students, and 10,000 or more students). The hiring standards were developed with stakeholders' input, and resemble the current educational level attained by most school nutrition program directors nationwide. The standards, based on minimum educational levels ranging from high school to bachelor's degree, will apply to new employees only; current program directors will be exempt the standards. The final rule simplifies implementation of the hiring standards in small local educational agencies by reducing the required years of experience for individuals with a high school diploma. The final rule also reduces and phases in the required annual training hours for all employees to minimize the impact on the local educational agencies.

### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This final rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of \$100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

### Executive Order 12372

The NSLP and State Administrative Expense Funds are listed in the Catalog of Federal Domestic Assistance Programs under 10.555 and 10.560, respectively. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V, and related Notice (48 FR 29115, June 24, 1983), this program is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

### Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13121.

#### Prior Consultation with State Officials

FNS headquarters and regional offices have ongoing, formal and informal discussions with State agency officials regarding the Child Nutrition Programs and policy issues. Prior to this rulemaking, FNS held several conference calls and meetings with State agencies to discuss the statutory requirements that are the foundation for this rule. FNS also discussed the professional standards statutory requirements with program operators at their State conferences. In addition, FNS received 2,204 public comments in response to the proposed rule (79 FR 6488). These various forms of consultation produced valuable input that has been considered in drafting this final rule.

#### Nature of Concerns and the Need to Issue This Rule

The key concern raised by State agencies and local educational agencies was the feasibility of the hiring standards for local educational agencies, especially those with than 500 students. Stakeholders also requested clarification of the annual training topics, and expressed concern about the required number of annual training hours and the possible training costs. These concerns are discussed in the preamble.

#### Extent to Which We Meet Those Concerns

FNS has considered the impact of this final rule on State and local operators, and has developed a rule that will implement the professional standards requirements in the most effective and least burdensome manner. The final rule includes several changes to facilitate implementation at all local educational agencies. For example, the final rule modifies some of the hiring standards to be more accepting of relevant work experience, reduces the required annual training hours for all local educational agencies, and phases in the annual training requirements. The rule also clarifies that program funds may be used to pay for employee training that is reasonable, allocable and necessary.

#### Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. However, FNS does not expect significant inconsistencies between this final rule and existing State or local hiring regulations. The hiring standards were developed with input from State agencies. This rule is not intended to have retroactive effect. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures under §210.18(q) or §235.11(f) must be exhausted.

#### Civil Rights Impact Analysis

FNS has reviewed this final rule in accordance with the Department Regulation 4300-4, “Civil Rights Impact Analysis”, and 1512-1, “Regulatory Decision Making Requirements,” to identify and address any major civil rights impacts the final rule might have on minorities,

women, and persons with disabilities. After a careful review of the proposed rule's intent and provisions, FNS has determined that this final rule is not intended to limit or reduce in any way the ability of protected classes of individuals to receive benefits on the basis of their race, color, national origin, sex, age or disability, nor is it intended to have a differential impact on minority owned or operated business establishments, and women-owned or operated business establishments that participate in the Child Nutrition Programs. The final rule establishes minimum educational requirements for new hires, ranging from a high school diploma/GED to a bachelor's degree, and annual training requirements for all employees. Current school nutrition program employees are exempt from the new hiring standards. The professional standards established by this rule are intended to help all employees gain knowledge and skills to perform their duties effectively, and are not expected to be a hiring obstacle for the protected classes.

#### Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

FNS provides regularly scheduled quarterly consultation sessions as a venue for collaborative conversations with Tribal officials or their designees. The most recent quarterly consultation sessions were held on February 19, 2014; May 21, 2014; August 20, 2014; and November 19, 2014. At the February 2014 consultation, FNS advised the Tribal officials that the proposed rule

on professional standards had been published and encouraged participants to submit public comments. There was only one question from a participant seeking to clarify who was covered by the proposed rule. No questions related to professional standards arose at subsequent Tribal consultations. FNS will respond in a timely and meaningful manner to any Tribal government request for consultation concerning the professional standards. We are unaware of any current Tribal laws that could be in conflict with this final rule.

#### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR part 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current, valid OMB control number. This is a new collection. The provisions in this rule create new burden which will be merged into a currently approved information collection titled “National School Lunch Program” (NSLP), OMB Number 0584-0006, which expires on February 29, 2016.

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements included in this final rule, which were filed under 0584-0588, have been submitted for approval to OMB. When OMB notifies us of its decision, we will publish a document in the Federal Register providing notice of the action.

#### E-Government Act Compliance

The Department is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

## List of Subjects

### 7 CFR Part 210

Children, Commodity School Program, Food assistance programs, Grant programs-health, Grant programs- education, School breakfast and lunch programs, Nutrition, Reporting and recordkeeping requirements.

### 7 CFR Part 235

Administrative practice and procedure, Food assistance programs, Grant programs-health, Grant programs- education, School breakfast and lunch programs, Nutrition, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 210 and 235 are amended as follows:

## **PART 210 – NATIONAL SCHOOL LUNCH PROGRAM**

1. The authority citation for part 210 continues to read as follows:

**Authority:** 42 U.S.C. 1751-1760, 1779.

2. In §210.2, add definitions of School nutrition program directors, School nutrition program managers, and School nutrition program staff in alphabetical order.

The additions read as follows:

### **§210.2 Definitions.**

\* \* \* \* \*

School nutrition program directors are those individuals directly responsible for the management of the day-to-day operations of school food service for all participating schools under the jurisdiction of the school food authority.

School nutrition program managers are those individuals directly responsible for the management of the day-to-day operations of school food service for a participating school(s).

School nutrition program staff are those individuals, without managerial responsibilities, involved in day-to-day operations of school food service for a participating school(s).

\* \* \* \* \*

3. Amend §210.15 as follows:

- a. In paragraph (b)(6), remove the word “and” at the end;
- b. In paragraph (b)(7), remove the period and add “; and” in its place; and
- c. Add paragraph (b)(8).

The addition reads as follows:

**§210.15 Reporting and recordkeeping**

\* \* \* \* \*

(b) \* \* \*

(8) Records for a three year period to demonstrate the school food authority’s compliance with the professional standards for school nutrition program directors, managers and personnel established in §210.30.

4. Amend §210.18 by adding new paragraph (h)(7) to read as follows:

**§210.18 Administrative reviews.**

\* \* \* \* \*

(h) \* \* \*

(7) Professional standards. The State agency shall ensure the school food authority complies with the professional standards for school nutrition program directors, managers and personnel established in §210.30.

\* \* \* \* \*

5. Amend §210.20 as follows:

- a. In paragraph (b)(13), remove the word “and” at the end;
- b. In paragraph (b)(14), remove the period and add “; and” in its place; and
- c. Add paragraph (b)(15).

The addition reads as follows:

**§210.20 Reporting and recordkeeping.**

\* \* \* \* \*

(b) \* \* \*

(15) Records for a three year period to demonstrate compliance with the professional standards for State directors of school nutrition programs established in §235.11(g) of this chapter.

**§§ 210.30 and 210.31 [Redesignated as §§ 210.31 and 210.32]**

6. Redesignate §210.30 and §210.31 as §210.31 and §210.32, respectively.

7. Add a new §210.30 to read as follows:

**§210.30 School nutrition program professional standards.**

(a) General. School food authorities that operate the National School Lunch Program, or the School Breakfast Program (7 CFR part 220), must establish and implement professional standards for school nutrition program directors, managers, and staff, as defined in §210.2.

(b) Minimum standards for all school nutrition program directors. Each school food authority must ensure that all newly hired school nutrition program directors meet minimum hiring standards and ensure that all new and existing directors have completed the minimum annual training/education requirements for school nutrition program directors, as set forth below:

(1) Hiring standards. All school nutrition program directors hired on or after July 1, 2015, must meet the following minimum educational requirements, as applicable:

(i) School nutrition program directors with local educational agency enrollment of 2,499 students or fewer. Directors must meet the requirements in either paragraph (b)(1)(i)(A), (B), (C), or (D) of this section.

(A) A bachelor's degree, or equivalent educational experience, with an academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;

(B) A bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate for school nutrition directors;

(C) An associate's degree, or equivalent educational experience, with an academic major or area of concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field and at least one year of relevant school nutrition program experience; or

(D) A high school diploma or equivalency (such as the general educational development diploma), and at least three years of relevant school nutrition program experience. For a local

educational agency with less than 500 students, the State agency has discretion to approve the hire of a director that meets the minimum educational requirement but has less than the required relevant school nutrition program experience. Directors hired under the criteria listed in this paragraph are strongly encouraged to work toward attaining an associate's degree in an academic major in the fields listed in this paragraph.

(ii) School nutrition program directors with local educational agency enrollment of 2,500 to 9,999 students. Directors must meet the requirements in either paragraph (b)(1)(ii)(A), (B), (C), or (D) of this section.

(A) A bachelor's degree, or equivalent educational experience, with an academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;

(B) A bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate for school nutrition directors;

(C) A bachelor's degree in any academic major and at least two years of relevant experience in school nutrition programs; or

(D) An associate's degree, or equivalent educational experience, with an academic major or area of concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field and at least two years of relevant school nutrition program experience. Directors hired with an associate's degree are strongly encouraged to work toward attaining a bachelor's degree in an academic major in the fields listed in this paragraph.

(iii) School nutrition program directors with local educational agency enrollment of 10,000 or more students. Directors must meet the requirements in either paragraph (b)(1)(iii)(A), (B), or (C) of this section.

(A) A bachelor's degree, or equivalent educational experience, with an academic major or area of concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;

(B) A bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate for school nutrition directors; or

(C) A bachelor's degree in any major and at least five years experience in management of school nutrition programs.

(D) School food authorities are strongly encouraged to seek out individuals who possess a master's degree or are willing to work toward a master's degree in the fields listed in this paragraph. At least one year of management experience, preferably in school nutrition, is strongly recommended. It is also strongly recommended that directors have at least three credit hours at the university level in food service management and at least three credit hours in nutritional sciences at the time of hire.

(iv) At the discretion of the State agency, acting school nutrition program directors expected to serve for more than 30 business days must meet the hiring standards established in §230.30(b)(1) of this chapter.

(v) School nutrition program directors for all local educational agency sizes. All school nutrition program directors, for all local educational agency sizes, must have completed at least eight hours of food safety training within five years prior to their starting date or complete eight hours of food safety training within 30 calendar days of their starting date. At the discretion of the

State agency, all school nutrition program directors, regardless of their starting date, may be required to complete eight hours of food safety training every five years.

(2) Summary of school nutrition program director hiring/standards. The following chart summarizes the hiring standards established in this section:

| Summary of School Nutrition Program Director Professional Standards by Local Educational Agency Size |   |   |  |
|--|---|---|--|
| Minimum Requirements for Directors   | Student Enrollment 2,499 or less  | Student Enrollment 2,500-9,999  | Student Enrollment 10,000 or more  |
| <b>Minimum Education Standards</b><br>(required)<br><i>(new directors only)</i>                      | <p>Bachelor's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field.</p> <p>OR</p> <p>Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, <u>and</u> a State-recognized certificate for school nutrition directors;</p> <p>OR</p> <p>Associate's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; <u>and</u> at least 1 year of relevant school nutrition programs experience;</p> <p>OR</p> <p>High school diploma (or GED) <u>and</u> 3 years of relevant experience in school nutrition programs.</p> | <p>Bachelor's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;</p> <p>OR</p> <p>Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, <u>and</u> a State-recognized certificate for school nutrition directors;</p> <p>OR</p> <p>Bachelor's degree in any academic major <u>and</u> at least 2 years of relevant school nutrition programs experience.</p> <p>OR</p> <p>Associate's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field; <u>and</u> at least 2 years of relevant school nutrition programs experience.</p> | <p>Bachelor's degree, or equivalent educational experience, with academic major or concentration in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;</p> <p>OR</p> <p>Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, <u>and</u> a State-recognized certificate for school nutrition directors;</p> <p>OR</p> <p>Bachelor's degree in any major <u>and</u> at least 5 years experience in management of school nutrition programs.</p> |
| <b>Minimum Education Standards</b><br>(preferred)<br><i>(new directors only)</i>                     | Directors hired without an associate's degree are strongly encouraged to work toward attaining associate's degree upon hiring.  | Directors hired without a bachelor's degree strongly encouraged to work toward attaining bachelor's degree upon hiring.   | <p>Master's degree, or willingness to work toward master's degree, preferred.</p> <p>At least one year of management experience, preferably in school nutrition, strongly recommended.</p> <p>At least 3 credit hours at the university level in food service management plus at least 3 credit hours in nutritional sciences at time of hiring strongly preferred.</p>  |
| <b>Minimum Prior Training Standards</b><br>(required )<br><i>(new directors only)</i>                | At least 8 hours of food safety training is required either not more than 5 years prior to their starting date or completed within 30 calendar days of employee's starting date.  |   |  |

(3) Continuing education/training standards for all school nutrition program directors. Each school year, the school food authority must ensure that all school nutrition program directors, (including acting directors, at the discretion of the State agency) complete annual continuing education/training. For the school year beginning July 1, 2015, program directors must complete eight hours of annual training. Beginning July 1, 2016, twelve hours of annual training are required. The annual training must cover administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures), as applicable, and any other specific topics identified by FNS, as needed, to address Program integrity or other critical issues. Continuing education/training required under this paragraph is in addition to the food safety training required in the first year of employment under paragraph (b)(1)(v) of this section.

(c) Continuing education/training standards for all school nutrition program managers. Each school year, the school food authority must ensure that all school nutrition program managers have completed annual continuing education/training. For the school year beginning July 1, 2015, program managers must complete six hours of annual training. Beginning July 1, 2016, ten hours of annual training are required. The annual training must include, but is not limited to, the following topics, as applicable:

- (1) Administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures);
- (2) The identification of reimbursable meals at the point of service;
- (3) Nutrition;
- (4) Health and safety standards; and

(5) Any specific topics identified by FNS, as needed, to address Program integrity or other critical issues.

(d) Continuing education/training standards for all staff with responsibility for school nutrition programs. Each school year, the school food authority must ensure that all staff with responsibility for school nutrition programs that work an average of at least 20 hours per week, other than school nutrition program directors and managers, completes annual training in areas applicable to their job. For the school year beginning July 1, 2015, staff must complete four hours of annual training. Beginning July 1, 2016, six hours of annual training are required. Part-time staff working an average of less than 20 hours per week must complete four hours of annual training beginning July 1, 2015. The annual training must include, but is not limited to, the following topics, as applicable to their position and responsibilities:

- (1) Free and reduced price eligibility;
- (2) Application, certification, and verification procedures;
- (3) The identification of reimbursable meals at the point of service;
- (4) Nutrition;
- (5) Health and safety standards; and
- (6) Any specific topics identified by FNS, as needed, to address Program integrity or other critical issues.

(e) Summary of required minimum continued education/training standards and flexibilities. The annual training requirements for school nutrition program managers, directors, and staff summarized in the following chart are effective beginning July 1, 2015. Program managers, directors, and staff hired on or after January 1 of each school year must complete half of their

required annual training hours before the end of the school year. At the discretion of the State agency:

(1) Acting and temporary staff, substitutes, and volunteers must complete training in one or more of the topics listed in paragraph (d) of this section, as applicable, within 30 calendar days of their start date; and

(2) School nutrition program personnel may carry over excess annual training hours to an immediately previous or subsequent school year and demonstrate compliance with the training requirements over a period of two school years, provided that some training hours are completed each school year.

| <b>Summary of Required Minimum Continuing Education/Training Standards, for All Local Educational Agency Sizes</b>        |   |
|---|---|
| <b>New and Current Directors</b>  | <p>Each year, at least 12 hours of annual continuing education/training.</p> <p>Includes topics such as:</p> <ul style="list-style-type: none"> <li>• Administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures).</li> <li>• Any specific topics required by FNS, as needed, to address Program integrity or other critical issues.</li> </ul> <p>This required continuing education/training is in addition to the food safety training required in the first year of employment, or for all school nutrition program directors if determined by the State agency.</p> |
| <b>New and Current Managers</b>   | <p>Each year, at least 10 hours of annual continuing education/training.</p> <p>Includes topics such as:</p> <ul style="list-style-type: none"> <li>• Administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures).</li> <li>• The identification of reimbursable meals at the point of service.</li> <li>• Nutrition, health and safety standards.</li> <li>• Any specific topics required by FNS, as needed, to address Program integrity or other critical issues.</li> </ul>  |
| <b>New and Current Staff</b><br>(other than the director and managers) that work an average of at least 20 hours per week | <p>Each year, at least 6 hours of annual continuing education/training.</p> <p>Includes topics such as:</p> <ul style="list-style-type: none"> <li>• Free and reduced price eligibility.</li> <li>• Application, certification, and verification procedures.</li> <li>• The identification of reimbursable meals at the point of service.</li> <li>• Nutrition, health and safety standards.</li> <li>• Any specific topics required by FNS, as needed, to address Program integrity or other critical issues.</li> </ul>   |

(f) Use of food service funds for training costs. Costs associated with annual continuing education/training required under paragraphs (b)(3), (c) and (d) of this section are allowed provided they are reasonable, allocable, and necessary in accordance with the cost principles set forth in 2 CFR part 225, Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A-87). However, food service funds must not be used to pay for the cost of college credits incurred by an individual to meet the hiring requirements in paragraphs (b)(1)(i) through (iv) and in paragraph (b)(2) of this section.

(g) School food authority oversight. Each school year, the school food authority director must document compliance with the requirements of this section for all staff with responsibility for school nutrition programs, including directors, managers, and staff. Documentation must be adequate to establish, to the State's satisfaction during administrative reviews, that employees are meeting the minimum professional standards. The school food authority must certify that:

- (1) The school nutrition programs director meets the hiring standards and training requirements set forth in paragraph (b) of this section; and
- (2) Each employee has completed the applicable training requirements in paragraphs (c) and (d) of this section no later than the end of each school year.

8. Revise newly redesignated §210.32 to read as follows:

**§210.32 OMB control numbers.**

The following control numbers have been assigned to the information collection requirements in 7 CFR part 210 by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

| <b>7 CFR section where requirements are described</b> | <b>Current OMB Control Number</b>  |
|---|--|
| 210.3(b)  | 0584-0067  |
| 210.4(b)  | 0584-0002  |
| 210.5(d)  | 0584-0006; 0584-0002; 0584-0067; 0584-0567 (to be merged with 0584-0006) |
| 210.7   | 0584-0567 (to be merged with 0584-0006)                                  |
| 210.8   | 0584-0284; 0584-0006   |
| 210.9   | 0584-0006  |
| 210.10  | 0584-0006; 0584-0494   |
| 210.11  | 0584-0576 (to be merged with 0584-0006)                                  |
| 210.13  | 0584-0006  |
| 210.14  | 0584-0006  |
| 210.15  | 0584-0006  |
| 210.17  | 0584-0075  |
| 210.18  | 0584-0006  |
| 210.19  | 0584-0006  |
| 210.20  | 0584-0006; 0584-0002; 0584-0067  |
| 210.23  | 0584-0006  |

**PART 235 – STATE ADMINISTRATIVE EXPENSE FUNDS**

9. The authority citation for Part 235 continues to read as follows:

**Authority:** Secs. 7 and 10 of the Child Nutrition Act of 1966, 80 Stat. 888, 889, as amended (42 U.S.C. 1776, 1779).

10. Amend §235.4 by revising paragraph (b)(2) to read as follows:

**§235.4 Allocation of funds to States.**

\* \* \* \* \*

(b) \* \* \*

(2) \$30,000 to each State which administers the Food Distribution Program (part 250 of this chapter) in schools and/or institutions which participate in programs under parts 210, 220, and 226 of this chapter; provided that the State meets the training requirements set forth in §235.11(g).

\* \* \* \* \*

11. Amend §235.6 by adding a sentence at the end of paragraph (a-1) to read as follows:

**§235.6 Use of funds.**

\* \* \* \* \*

(a-1) \* \* \* State agencies may also use these funds for the purposes of State director annual continuing education/training as described in §235.11(g)(3); however, costs associated with obtaining college credits to meet the hiring standards in §235.11(g)(1) and (2) are not allowable.

\* \* \* \* \*

12. Amend §235.11 as follows:

- a. In paragraph (b)(2)(iv), remove the word “and” at the end;
- b. In paragraph (b)(2)(v), remove the period and add “; and” in its place;
- c. Add paragraph (b)(2)(vi); and
- d. Add paragraph (g).

The additions read as follows:

**§235.11 Other provisions.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(vi) Meeting the professional standards required in paragraph (g) of this section.

\* \* \* \* \*

(g) Professional standards. State agencies must meet the minimum hiring and training standards established by FNS.

(1) Hiring standards for State directors of school nutrition programs. Beginning July 1, 2015, newly hired State agency directors with responsibility for the administration of the National School Lunch Program under part 210 of this chapter and the School Breakfast Program under part 220 of this chapter must have:

(i) Bachelor’s degree with an academic major in areas including food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;

(ii) Extensive relevant knowledge and experience in areas such as institutional food service operations, management, business, and/or nutrition education (experience in three or more of these areas highly recommended); and

(iii) Additional abilities and skills needed to lead, manage and supervise people to support the mission of Child Nutrition programs.

(iv) It is also strongly preferred that new hires possess:

(A) Master's degree with an academic major in areas including food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;

(B) At least five years of experience leading people in successfully accomplishing major multi-faceted projects related to child nutrition and/or institutional foodservice management; and

(C) Professional certification in food and nutrition, food service management, school business management or a related field as determined by FNS.

(2) Hiring standards for State directors of distributing agencies. Beginning July 1, 2015, newly hired State agency directors with responsibility for the administration of the distribution of USDA donated foods under part 250 of this chapter must have:

(i) Bachelor's degree in any academic major;

(ii) Extensive relevant knowledge and experience in areas such as institutional food service operations, management, business, and/or nutrition education; and

(iii) Additional abilities and skills needed to lead, manage and supervise people to support the mission of Child Nutrition programs.

(iv) It is also strongly preferred that new hires possess at least five years of experience in institutional food service operations.

(3) Continuing education/training standards for State directors of school nutrition programs and distributing agencies. Each school year, all State directors with responsibility for the National School Lunch Program under part 210 of this chapter and the School Breakfast Program under

part 220 of this chapter, as well as those responsible for the distribution of USDA donated foods under part 250 of this chapter, must complete a minimum of 15 hours of training in core areas that may include nutrition, operations, administration, communications and marketing.

Additional hours and topics may be specified by FNS, as needed, to address Program integrity and other critical issues.

(4) Provision of annual training. At least annually, State agencies with responsibility for the National School Lunch Program under part 210 of this chapter and the School Breakfast Program under part 220 of this chapter, as well as State agencies with responsibility for the distribution of USDA donated foods under part 250 of this chapter, must provide or ensure that State agency staff receive annual continuing education/training.

(i) Each State agency with responsibility for the National School Lunch Program under part 210 of this chapter and the School Breakfast Program under part 220 of this chapter must provide a minimum of 18 hours of continuing education/training to school food authorities. Topics include administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures); the accuracy of approvals for free and reduced price meals; the identification of reimbursable meals at the point of service; nutrition; health and food safety standards; the efficient and effective use of USDA donated foods; and any other appropriate topics, as determined by FNS, to ensure program compliance and integrity or to address other critical issues.

(ii) Each State agency with responsibility for the distribution of USDA donated foods under part 250 of this chapter must provide or ensure receipt of continuing education/training to State distribution agency staff on an annual basis. Topics may include the efficient and effective use of USDA donated foods; inventory rotation and control; health and food safety standards; and

any other appropriate topics, as determined by FNS, to ensure program compliance and integrity or to address other critical issues.

(5) Records and recordkeeping. State agencies must annually retain records for a period of three years to adequately demonstrate compliance with the professional standards for State directors of school nutrition programs established in this paragraph.

(6) Failure to comply. Failure to comply with the professional standards in this paragraph may result in sanctions as specified in paragraph (b) of this section.

13. Revise §235.12 to read as follows:

**§235.12 Information collection/recordkeeping—OMB assigned control numbers.**

| <b>7 CFR section where requirements are described</b> | <b>Current OMB Control Number</b> |
|---|-----------------------------------|
| 235.3(b)  | 0584-0067                         |
| 235.4   | 0584-0067                         |
| 235.5(b),(d)  | 0584-0067                         |
| 235.7(a),(b)  | 0584-0067                         |
| 235.9(c),(d)  | 0584-0067                         |
| 235.11  | 0584-0067                         |
| 210.7   | 0584-0067                         |

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Dated: February 24, 2015.