Note: The following rule is being submitted to the Office of the Federal Register for publication. While USDA-FNS has taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version. Upon publication in the Federal Register, the official version will be available at www.federalregister.gov and www.regulations.gov.

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[FNS-2011-0030]

7 CFR Parts 210 and 235

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: Proposed rule.

SUMMARY: This proposed rule would establish minimum professional standards for school nutrition personnel who manage and operate the National School Lunch and School Breakfast Programs. The proposed rule would also institute hiring standards for the selection of State and local school nutrition program directors; and require all personnel in these programs to complete annual continuing education/training. These proposed changes respond to amendments made by section 306 of the Healthy, Hunger-Free Kids Act of 2010 (HHFKA), which require USDA to establish professional standards for school nutrition personnel. The HHFKA also requires each State to provide at least annual training to local educational agency and school nutrition personnel. This proposed rule is expected to provide consistent, national standards for school nutrition professionals and staff. The principal benefit of this proposed rule is to ensure that key

school nutrition personnel are meeting minimum professional standards in order to adequately perform the duties and responsibilities of their positions.

DATES: To be assured of consideration, written comments on this proposed rule must be received by the Food and Nutrition Service on or before [insert date that is 60 days after publication in the FEDERAL REGISTER].

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this proposed rule. Comments must be submitted through one of the following methods:

- Preferred method: Federal eRulemaking Portal at http://www.regulations.gov. Follow the online instructions for submitting comments.
- Mail: Comments should be addressed to Julie Brewer, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, Department of Agriculture, P.O. Box 66874, Saint Louis, MO, 63166.

All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Duplicate comments are not considered. Therefore, we request that commenters submit comments through only one of the methods listed above. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the comments publicly available on the Internet via http://www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Sara Olson, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service at (703) 305-2590.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306 of the Healthy, Hunger-Free Kids Act of 2010, Public Law 111-296 (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 rule proposes to amend 7 CFR part 210, the regulations governing the National School Lunch Program, and 7 CFR part 235, the regulations governing State Administrative Expense Funds, consistent with amendments made to the CNA by the HHFKA.

Section 306 directs the Secretary to:

- Establish a program of mandatory education, training, and certification for all school nutrition directors responsible for the management of a school food authority. The program must include minimum educational and periodic training requirements necessary to successfully manage the school meals programs.
- Require that each local educational agency or school food authority ensure that local nutrition personnel complete annual training and receive annual certification (as specified by the Secretary) to demonstrate competence in the areas covered by the training, including ensuring individuals conducting or overseeing administrative procedures receive training at intervals defined by the Secretary.
- Establish criteria and standards for States to use in the selection of State agency directors with responsibility for the National School Lunch Program (NSLP) and the School Breakfast Program (SBP).

- Require each State to provide at least annual training in administrative practices to local educational agency and school nutrition personnel.

In developing this proposal, USDA 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. FNS explained the requirements of the HHFKA and solicited feedback from the audience. The participants brought up a number of general issues for USDA 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, in an effort to obtain additional information from those who would be directly impacted by the HHFKA amendments, FNS held a two-day listening session attended by approximately 60 invited stakeholders, representing a variety of State agencies, local educational agencies (both large and small), professional associations and other constituencies concerned with child nutrition. Through small group activities, breakout sessions and full group discussions, stakeholders provided suggestions for USDA to consider when proposing standards for required and preferred professional standards. Participants also offered input on use of resources to successfully implement national standards, as well as how to overcome potential barriers/challenges in implementation.

As follow-up to the March session, interested participants volunteered to continue to provide input via conference calls. Participants on the calls continued to include State and district directors, professional organizations, and USDA 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 offered sessions describing Section 306 of HHFKA at the School Nutrition Association's Annual National Conference in July 2012 and July 2013, and received comments and feedback from attendees. The audience,—which consisted of State agency directors and staff, school nutrition directors, managers and other personnel,–provided significant input on proposed school nutrition program professional standards.

II. Overview of the Proposed Rule

This rule proposes to establish the criteria and procedures for implementing the provisions in section 7(g) of the CNA (42 U.S.C. 1776 (g)). The proposed rule would amend 7 CFR part 210 by redesignating §§210.30 and 210.31 as §§210.31 and 210.32, respectively. A new §210.30, School nutrition program professional standards, would be added, as would new definitions in §210.2. The proposed rule would also amend 7 CFR part 210 by revising §§210.15, 210.18, 210.20, and 210.32(as redesignated). The proposed rule would amend 7 CFR part 235 by revising §§235.4, 235.6, 235.11, and 235.12. No administrative reporting burden is associated with this proposed rule.

Use of Terms

To ensure a consistent understanding of this rulemaking, the use of terms is discussed below.

The HHFKA uses the term "local educational agency" when describing the local entity responsible for compliance with school nutrition program professional standards. The local educational agency, as the authority responsible for the administrative control of public or private nonprofit educational institutions within a defined area of the state, has responsibilities beyond school nutrition programs. Accordingly, for purposes of this proposed regulation, the requirements will refer to and apply to the school food authority (SFA), which is the governing body that has the legal authority to operate the school meal programs. The term "local educational agency" will be used to define requirements that vary by size of student enrollment.

State directors of school nutrition programs include those individuals at the State agency level with responsibility for oversight of the NSLP and SBP. State directors of distributing agencies include those individuals at the State agency level with responsibility for the distribution of USDA Foods in schools under 7 CFR part 250. The Department recognizes that these roles may rest with one individual in some states.

School nutrition program directors are those local individuals directly responsible for the management of the day-to-day operations of school nutrition programs 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 nutrition programs for a participating school(s). School nutrition program staff are those individuals without managerial responsibilities who are involved in routine operations of school nutrition programs for a participating school(s). This may include, for example, those individuals who prepare and serve meals, process transactions at the point of service, and review free/reduced price applications. These definitions as described above are applicable whether or

not an SFA is operated by a food service management company. The proposed rule would define the terms school nutrition directors, managers and staff in proposed §210.2. If an individual possesses responsibilities for more than one of these positions, the higher level position requirements will apply. For instance, an individual fulfilling the roles of both director and manager would be required to meet the proposed requirements for school nutrition directors.

Minimum Standards

The professional standards proposed in this rule represent minimum standards that State agencies, school food authorities and local school nutrition personnel would be required to meet. For example, if the proposed minimum requirement is a bachelors degree in specific fields, a candidate with a master's degree or higher in those fields would meet and exceed the minimum proposed requirement. Therefore, the candidate would be eligible for hire. State agencies and/or school food authorities would have the discretion to establish their own professional standards should they wish to do so, as long as such standards are not inconsistent with the minimum standards established by FNS. For instance, a State may choose to consider additional factors, such as State certificates, as an aspect of the required professional standards criteria.

School Nutrition Program Professional Standards for School Nutrition Program Directors, School Nutrition Program Managers and Staff

School Nutrition Program Directors Hiring Standards

Section 7(g)(1)(A) of the CNA, now requires the Secretary to establish a program of required education, training and certification for directors, including the minimum educational requirements necessary to successfully manage the NSLP and SBP.

Proposed §210.30(b)(1) would require that beginning July 1, 2015, all school nutrition program directors hired must meet minimum educational requirements. FNS has categorized the minimum educational requirements into four distinct local educational agency (LEA) sizes, based on student enrollment (LEAs with 2,499 students or less, between 2,500 and 9,999 students, between 10,000 and 24,999 students, and LEAs with 25,000 or more students). This is in recognition of the fact that as LEA size increases, the level of responsibility and complexity of the food service system also increases and necessitates a higher minimum educational level. Some level of prior relevant school nutrition program experience is also proposed to be required in conjunction with the educational requirements for the two smaller LEA sizes.

At all LEA sizes, if a new director has attained a bachelor's degree or higher (in an academic major or area of concentration as described further below), no prior experience would be required. This is in consideration of the possibility that some well-qualified directors may accept a director position shortly following college graduation. However, the proposed rule strongly encourages school food authorities to seek individuals with at least one year of management experience, preferably in school nutrition programs, at all LEA sizes.

While the intent of this proposed regulation is to set a minimum level of expertise in key school nutrition program positions, we recognize that expectations must be reasonable and achievable, particularly in rural or small LEAs. This concern was expressed repeatedly by stakeholders who provided input at the public forums described earlier in this preamble.

Accordingly, this rule proposes several different pathways for a candidate to meet the educational requirement for all LEAs and seeks comments on these proposed approaches as well as appropriate alternatives.

Additionally, current directors indicated that some directors may have responsibility for more than one small school food authority. One potential solution for ensuring that school food authorities with director position openings meet the proposed hiring standards is to select an individual that will oversee more than one school food authority. However, if a director is responsible for multiple school food authorities, he/she would be required to comply with the educational standards for the total enrollment of the LEAs he or she oversees (e.g., for three LEAs with 4,000 students each, for a total enrollment of 12,000, the school nutrition program director must meet the proposed educational criteria for the 10,000-24,999 student category). In this proposed rule, "hire date" is defined as the official date listed on hiring paperwork. It may or may not be equivalent to an employee's start date.

School nutrition program directors with LEA enrollment of 2,499 students or fewer

The proposed standards for this LEA size are based on information from the public forums, as well as by the most recent results from the fourth School Nutrition Dietary Assessment Study (SNDA-IV), conducted during School Year 2011-12. According to this survey, 34 percent of current directors in LEAs of this size possess an associate's degree or higher. An additional 27 percent have completed some college without a degree; however 27 percent only possess a high school diploma. As noted above, this helped inform the decisions to both apply the educational standards to new directors only, as well as propose alternate pathways for hiring of directors in

LEAs of this size. This is intended to assist LEAs of very small size in achieving compliance with the proposed standards.

Under proposed §210.30(b)(1)(i), school nutrition program directors with an LEA enrollment of 2,499 students or fewer would be required to possess one of the following at the time of hiring:

- 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;
- A bachelor's degree, or equivalent educational experience, in any academic major or area of concentration and a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business (additional information on this educational attainment option will be further clarified in guidance);
- 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
- A high school diploma or equivalency (such as the general educational development diploma), and at least five years of relevant school nutrition program experience.

For this LEA size, and particularly in rural areas, it is suggested and encouraged that if directors are hired without an associate's degree, that the school food authority and/or the State agency train these directors and encourage them to attain this degree within five years- even if

the manager has five or more years of experience. This is intended to bolster the credential levels of school nutrition program directors and enhance their practical experience with training and formal academic instruction.

School nutrition program directors with LEA enrollment of 2,500 to 9,999 students

According to SNDA-IV data on educational attainment for directors in LEAs with an enrollment of 2,500 to 9,999 students, nearly 70 percent of current directors have an associate's, bachelor's or graduate degree, and another 22 percent have some college. Therefore, only 8 percent of current directors possess only a high school diploma.

Proposed §210.30(b)(1)(ii) would require that new directors in this LEA size possess one of the following at the time of hiring:

- 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;
- A bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business (additional information on this educational attainment option will be further clarified in guidance);
- 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.

School food authorities would be strongly encouraged to seek out individuals who possess a bachelor's degree or higher in the fields described above or individuals who are interested in pursuing a bachelor's degree post-hire, in addition to at least one year of relevant school nutrition program experience.

School nutrition program directors with LEA enrollment of 10,000 to 24,999 students

According to SNDA-IV data on educational attainment for directors in LEAs with an enrollment of 10,000 to 24,999 students, nearly 85 percent of current directors have a bachelor's or graduate degree.

Due to the increasing demands of a position in a LEA of this size, yet in recognition of the diversity of backgrounds that provide sufficient expertise for the director position, proposed §210.30(b)(1)(iii) would require that new directors possess one of the following at the time of hiring:

- 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; or
- A bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education,

culinary arts, or business. Additional information on this educational attainment option will be further clarified in guidance.

School food authorities would be strongly encouraged to seek out individuals who possess or are willing to work toward a master's degree with an academic major or area of concentration in fields noted previously. Additionally, at least one year of management experience, preferably in school nutrition, would be strongly recommended.

In order to better ensure that directors at this level, regardless of which academic degree they have attained, are adequately educated in the key areas of food service management and nutrition, school food authorities would also be encouraged to seek individuals possessing 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.

School nutrition program directors with LEA enrollment of 25,000 or more students

According to SNDA-IV data on educational attainment for directors in LEAs with an enrollment of 25,000 or more students, nearly 80 percent of current directors possess either a bachelor's or graduate degree.

USDA considered several combinations of academic degrees, credentialing and work experience for directors in LEAs with an enrollment of 25,000 or more students. Ultimately, USDA determined that for a director with the level of financial responsibility required for a LEA of this size, the director must have a strong educational background. Thus, the proposed rule at §210.30(b)(1)(iv) would require that new directors possess one of the following:

- 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;
- A bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business (additional information on this educational attainment option will be further clarified in guidance); or
- A master's degree, or willingness to work towards a master's degree (in an academic major or area of concentration as described above), would be strongly preferred. While no prior level of experience would be required, the proposed rule strongly encourages school food authorities to seek individuals with at least one year of management experience, preferably in school nutrition programs.

As with the criteria for directors in LEAs with enrollments of 10,000 to 24,999 students, school food authorities would also be encouraged to seek individuals possessing at least three credit hours at the university level in food service management and at least three credit hours in nutritional sciences.

School nutrition program directors of all LEA sizes

Given the vulnerable population served by the school nutrition programs, USDA believes knowledge of food safety is essential to providing healthful and safe school meals. The proposed rule at §210.30(b)(1)(v) would require all new directors, regardless of LEA size, to possess at

least eight hours of food safety training within three years prior to their starting date or complete such training within 30 calendar days of the employee's starting date. A new director may satisfy this training requirement by providing documentation of training that was completed either during a past position or through a food safety course or certificate program. Since the requirements set forth in this proposed rule are minimum standards, acceptable time frames for prior training may vary dependent upon State and/or local health department rules and regulations. New hires must provide sufficient documentation of any prior training.

The following chart summarizes the written requirements stated above for school nutrition program directors, broken down by each of the four LEA sizes:

Summary of School Nutrition Program Director Proposed 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 10,000-24,999	Student Enrollment 25,000 or more
Minimum Education Standards (required) *(new directors only)*	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. OR Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and 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 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; OR Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and 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 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; OR Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business.	Same requirements as for 10,000-24,999

	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; and at least one year of relevant school nutrition programs experience; OR High school diploma (or GED) and 5 years of relevant experience in school nutrition programs.	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; and at least one year of relevant school nutrition programs experience.		
Minimum Education Standards (preferred) *(new directors only)*	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. At least one year of management experience, preferably in school nutrition, strongly recommended. 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.	Master's degree, or willingness to work toward master's degree, preferred. At least one year of management experience, preferably in school nutrition, strongly recommended. 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.
Minimum Prior Training Standards (required) *(new directors only)*	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.			

General Training/Education Requirements for Directors, Managers and Staff

Section 7(g)(2) of the CNA, now requires the establishment of training and certification for school food service personnel. Stakeholders provided input on criteria for continuing education/training, as well as related issues such as funding, ensuring access for all employees to training opportunities, and supervisor tracking and verifying that such training was completed by

staff. Primary themes were the importance of providing multiple paths, methods, and technologies for meeting training requirements; the importance of validating the existing training programs for this purpose; and ensuring that cost, distance, and limited computer access do not present significant barriers to those needing training.

Stakeholders also expressed concerns that FNS would be establishing a certification or credentialing system, which is a more structured program that typically requires a credentialing exam and leads to an official credential. FNS has no intention of creating any type of credentialing system. While currently in the early stages of planning and development, FNS intends to instead create a certificate program to acknowledge varying levels of training completed that will align with the minimum required annual continuing education/training requirements proposed in this regulation. This type of program would be more loosely structured, and instead would only consist of recognition for various levels of training. Some certificate levels would therefore be readily obtained by meeting the minimum annual training requirements for school nutrition program staff, managers, and directors (e.g.. one level of recognition once 15 cumulative training hours have been completed, potentially over several years; and a second level of recognition after at least 30 hours of cumulative training completed).

Such a tiered approach would acknowledge those employees who meet annual minimum training as well as more formally recognize those employees who choose to increase their knowledge and expertise beyond what is required for their positions. This could provide an opportunity for school nutrition program staff, at all levels, to work toward and achieve increased professional competency without enrollment in a formal degree program.

FNS recognizes that some States have already developed their own State certificate programs, as well. While a State certificate alone would not replace the planned FNS certificate program discussed above, annual continuing education/training hours obtained for the purposes of a State certificate would be allowed to count toward training required for the FNS certificate program.

The FNS certificate program would consist of four core areas: nutrition, operations, administration, and communications/marketing. These core areas would include specific topics as required by Section 7(g)(1)(A) of the CNA. Additional training topics would be contingent upon position title and/or job function. For instance, those in a director position may need to receive additional training in: menu planning; standard operating procedures for ordering; receiving and storage; purchasing procedures; compliance with accommodating children with special dietary needs; communications with State agencies and district authorities; the efficient and effective use of USDA foods; and emergency management. Similarly, individuals who work as cooks/servers in a food service area may need to receive training specifically in receiving and storage, point of service cashiering, food production, and serving food. It is anticipated that all school nutrition programs staff positions that involve the handling of food would receive food safety training.

Section 7(g)(1)(C) of the CNA, authorizes USDA to provide financial and other assistance to one or more professional food service management organizations to assist with the development and management of training and certification. FNS is currently exploring additional and ongoing collaboration with partners such as the National Food Service Management Institute (NFSMI) to offer nationwide training opportunities. It is FNS' intent that continuing education/training

would be undertaken in a variety of formats, including both virtual/web-based and in-person sessions. Further, such training shall include free or low-cost options for States and school food authorities.

Training would also be accepted from a wide variety of other sources. Training provided by FNS, NFSMI, commercial vendors, academic institutions, professional associations, or provided in-house by the State or LEA are examples of some potentially acceptable sources. As noted above, training could be conducted both online (webinars, interactive online sessions, etc) and in-person (public speakers, in-service trainings, attendance at a class or seminar). Additionally, training conducted by a director or manager for his/her staff would be creditable toward part of his/her own annual education/training requirement. The flexibility offered to directors at the local level to count training conducted toward their annual training requirement is in recognition of limited resources and time at the local level, as well as overlapping training needs for directors, managers and staff. Therefore, School Nutrition Program directors would gain knowledge and insight necessary for their positions as they prepare for and conduct trainings for staff.

Minimum Required Annual Continuing Education/Training for School Nutrition Program Directors

Section 7(g)(1)(A) of the CNA requires training and certification for all school nutrition program directors. Stakeholders participating as noted above, universally agreed that it is critical for school nutrition program directors to continue to engage in education and training beyond

their first year of employment, in order to be informed of the most current practices and regulations, enhance skills, and refresh an existing knowledge base.

The proposed §210.30(b)(3) would require that each school year beginning with the first year of hire or July 1, 2015, whichever is later, each school nutrition program director complete at least 15 hours of annual continuing education/training in topics including administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) and any other topics determined by FNS. This required continuing education/training is in addition to the food safety training, required in the first year of employment only, described above.

Proposed Continuing Education/Training Standards for School Nutrition Program Managers

Section 7(g)(2)(A) of the CNA, as amended, requires that each school food authority must ensure that an individual conducting or overseeing administrative procedures receives training annually, unless determined otherwise by the Secretary. School nutrition program managers include those individuals directly responsible for the management of the day-to-day operations of school food service for a participating school(s). This same definition is applicable whether or not an SFA is operated by a food service management company.

Therefore, proposed §210.30(c) would require that each school year beginning with the first year of hire, each school nutrition program manager complete at least 12 hours of annual continuing education/training, or as otherwise specified by FNS. Continuing education would include topics such as: administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures); the identification of reimbursable

meals at the point of service, nutrition, health and safety standards; and other topics, as specified by FNS.

Proposed Continuing Education/Training Standards for School Nutrition Program Staff

Section 7(g)(2)(B) of the CNA imposes requirements for local nutrition personnel to complete annual training/certification to demonstrate competence in the areas covered by the training.

Proposed §210.30(d) would require that, for each school year, school nutrition program staff (other than the director and managers) who work an average of at least 20 hours per week, complete at least eight hours of continuing education/training applicable to their job. Continuing education would include topics such as: free and reduced price eligibility; application, certification, and verification procedures; the identification of reimbursable meals at the point of service; nutrition, health and safety standards; and other topics, as specified by FNS.

FNS recognizes that many school nutrition programs staff may work part-time. Staff that work an average of 20 hours or more per week are involved in food service area activities at a substantial enough level to require a minimum of 8 hours of annual education/training. However, we recognize that this much training may be burdensome for staff working fewer than 20 hours, on average, per week. While we strongly encourage all staff, whether part-time or full time, to receive a minimum of 8 hours of annual continuing education/training, the required training hours for staff working an average of less than 20 hours per week should be proportional to the number of hours worked. FNS seeks comments that specifically pertain to requirements for part time staff.

Summary of Proposed Required Minimum Training/Education Standards, for All LEA Sizes	
New and Current Directors	Each year, at least 15 hours of annual continuing education/training. Includes topics such as: • administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) • any other appropriate topics as determined by FNS. This required continuing education/training is in addition to the food safety training required in the first year of employment.
New and Current Managers	Each year, at least 12 hours of annual continuing education/training. Includes topics such as: • administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) • the identification of reimbursable meals at the point of service • nutrition, health and safety standards • other topics, as specified by FNS
New and Current Staff (other than the director and managers) that work an average of at least 20 hours per week	Each year, at least 8 hours of annual continuing education/training. Includes topics such as: • free and reduced price eligibility • application, certification, and verification procedures • the identification of reimbursable meals at the point of service • nutrition, health and safety standards • other topics, as specified by FNS

Use of School Nutrition Program Funds for Training Costs

Providing training to school nutrition program staff is an allowable use of the nonprofit school food service account. Proposed §210.30(f) would require that any costs associated with training be reasonable, allocable, and necessary in accordance with the cost principles set forth in 2 CFR 225, Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87). However, the proposed rule would specifically exclude as an allowable cost, any costs incurred by an individual to meet the educational criteria necessary to be hired as a new school nutrition program director, as proposed in §210.30(b)(1). For example, the school food authority

cannot use nonprofit school food service account funds to pay the costs of an existing employee to take college-level classes.

Proposed §210.30(f) would also exclude as an allowable cost any cost associated with obtaining college credits. This does not preclude obtaining training hours through a college or university; however, the earning of college credits is not considered a reasonable and necessary expense for these proposed professional standards and thus cannot be funded with nonprofit school food service account dollars.

FNS, in cooperation with other organizations and entities, intends to provide education/training to meet the needs of most of the proposed training requirements. We are confident that State agencies and school food authorities will also be offering training opportunities; therefore, there will be a limited need to seek additional outside sources for education/training.

School Food Authority Oversight

Proposed §210.30(g) would require each school food authority to maintain a recordkeeping system that annually documents compliance with the professional standard requirements for all school nutrition program employees. Documentation must be adequate to support to the State's satisfaction during administrative reviews, that employees are meeting the minimum professional standards. At a minimum, the school food authority would review employee education/training progress periodically throughout the year and certify employee compliance no later than the end of each school year. FNS encourages school food authorities to review and certify employee

education/training on a more frequent basis. FNS expects to provide prototype tools that will assist school food authorities in maintaining this recordkeeping system.

Current regulations at §210.15, Reporting and recordkeeping, summarize school food authority reporting and recordkeeping requirements. In order to participate in the NSLP and SBP, a school food authority must maintain records to demonstrate compliance with Program requirements. This proposed rule would add professional standards recordkeeping requirements to the recordkeeping summary set forth in paragraph (b) of this section.

Program regulations at §210.18, Administrative review, requires State agencies to conduct administrative reviews of school food authorities once every three years. The administrative review covers critical and general areas of review. This proposed rule would amend §210.18(h) to add professional standards to the general areas scope of review. Specifically, the State agency would be required to ensure that the school food authority complies with the professional standards for school nutrition program directors, managers and personnel established in §210.30.

School Nutrition Program Professional Standards (State Directors)

Section 7(g)(1)(b) of the CNA, now requires the Secretary to establish criteria and standards for States to use in the selection of State agency directors with responsibility for the NSLP and the SBP. Therefore, this proposed rule would amend 7 CFR part 235, State administrative expense funds.

Proposed §235.11(b)(2)(vi) would require that State agencies meet the professional standards and criteria described below under Hiring Standards for State Directors of School Nutrition. This proposed rule would establish criteria and standards for the hiring of individuals as State

agency directors and would therefore apply only to those State agency directors hired after July 1, 2015. Incumbents would not be affected. However, annual continuing education/training is proposed to apply to all current and new State directors of school nutrition, as well as State directors of distributing agencies.

Hiring Standards for State Directors of School Nutrition

Proposed §235.11(g)(1) would require that beginning July 1, 2015, all new State directors of school nutrition (commonly referred to as State Child Nutrition Directors) with responsibility for the administration of the NSLP and SBP must meet minimum hiring standards.

Under proposed §235.11(g)(1)(i), new hires would be required to possess 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.

Proposed §235.11(g)(1)(ii) would require new directors to possess extensive relevant knowledge and experience in areas such as institutional food service operations, management, business, and/or nutrition education. FNS highly recommends that State directors of school nutrition programs have experience in three or more of these four areas. FNS anticipates offering additional guidance to assist hiring authorities in ensuring that candidates possess an adequate level of expertise in these areas.

Proposed §235.11(g)(1)(iii) would require new directors to possess additional abilities and skills needed to lead, manage and supervise people to support the mission of school nutrition programs. More specifically, directors should be able to: work with team members to set,

prioritize and achieve objectives; guide the resolution of problems; make decisions analytically and strategically; speak and write clearly, concisely and persuasively; communicate effectively with individuals and groups; analyze complex data and situations; interpret Federal and State regulations and establish policies and procedures to effectively implement them statewide; manage child nutrition administrative budget and plans; develop and make presentations; plan and organize work assignments for oneself and others including program compliance requirements; practice efficient self-management techniques; work effectively in a team environment and with all levels of employees in an organization; build positive internal and external working relationships, and use word processing, power point and similar software.

Proposed §235.11(g)(1)(iv) identifies several criteria that are strongly preferred, but not required. This is in recognition of the fact that USDA is setting only minimum professional standards; however additional requirements are desirable and are suggested for consideration. For example, this proposed regulation recommends that new hires possess a master's degree with an academic major in the areas discussed above; 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 professional certification (such as SNS, RD, etc.) in food and nutrition, food service management, school business management or a related field as determined by FNS.

Hiring Standards for State Directors of Distributing Agencies

USDA has discretion under section 7(g) of the CNA as amended, to apply professional standards requirements to State directors of distributing agencies responsible for overseeing State

food distribution activities authorized under 7 CFR part 250. The application of such standards is intended to ensure that State directors maintain a minimum required skill level to effectively distribute and utilize USDA food products in school nutrition programs. Such skills are necessary in order to manage and integrate this significant portion of Child Nutrition assistance. Recent changes to the school meal nutrition standards require support and expertise from State directors to ensure that food provided to SFAs complements the more in-depth meal pattern requirements (e.g. whole grain-rich products, vegetable subgroups, etc).

Therefore, proposed §235.11(g)(2) would require that beginning July 1, 2015, all new State agency directors with responsibility for the distribution of USDA donated foods in 7 CFR part 250 must meet minimum hiring standards. This would apply to all new State directors of distributing agencies, regardless of whether or not the director also has responsibility for the State school nutrition programs.

Under proposed §235.11(g)(2)(i), new State agency directors would be required to possess a bachelor's degree with an academic major in any area. Recognizing that the responsibilities of State directors of distributing agencies are more variable than those of directors responsible for school nutrition programs, specific academic majors are not required, therefore, education attained in a variety of fields is acceptable for this position.

Proposed §235.11(g)(2)(ii) would require new directors to possess extensive relevant knowledge and experience in areas such as institutional food service operations, management, business, and/or nutrition education. However, unlike the standards for directors of school nutrition, FNS is not recommending that directors of distributing agencies have experience in a specific number of these areas.

Proposed §235.11(g)(2)(iii) would require new directors to possess additional abilities and skills needed to lead, manage and supervise people to support the mission of school nutrition programs. More specifically, directors should be able to: work with team members to set, prioritize and achieve objectives; guide the resolution of problems; make decisions analytically and strategically; speak and write clearly, concisely and persuasively; communicate effectively with individuals and groups; analyze complex data and situations; interpret Federal and State regulations and establish policies and procedures to effectively implement them statewide; manage administrative budget and plans; develop and make presentations; plan and organize work assignments for oneself and others including program compliance requirements; practice efficient self-management techniques; work effectively in a team environment and with all levels of employees in an organization; build positive internal and external working relationships; and use word processing, spreadsheet, and presentation creations or similar software.

Proposed §235.11(g)(2)(iv) identifies an additional criterion that is strongly preferred, but not required. This proposed regulation recommends that new hires possess at least five years of experience in institutional food service operations.

Minimum Annual Continuing Education/Training Standards

Proposed §235.11(g)(3) would require that each school year, all State agency directors with responsibility for the NSLP and SBP, as well as those responsible for the distribution of USDA donated foods in schools under part 250 of this chapter, must complete a minimum of 15 hours of continuing education/training in core areas appropriate to the areas of responsibility and may

include: nutrition, operations, administration, and communications/marketing. Any additional hours and topics would be specified by FNS on an annual basis, as necessary.

During discussions with existing directors of both school nutrition and distributing agencies, annual continuing education/training was universally supported.

Similar to the required annual education/training for school nutrition program directors, managers and staff, training taken by State directors will also be accepted from a wide variety of other sources. Training provided by FNS, NFSMI, commercial vendors, academic institutions, or professional associations are examples of some acceptable sources. As noted above, training can be conducted online (webinars, interactive online sessions, etc) and/or in-person (public speakers, in-services, attendance of a class or seminar). Additionally, training required under the proposed Child Nutrition integrity rule, which would require annual training hours in procurement, would also count toward the proposed annual requirement discussed here. However, training that is conducted by a State director may not be credited toward part of his/her own annual education/training requirement. This is to ensure that State directors are being trained in areas they may not yet already be proficient in, and to recognize that they have training needs that are unique from the needs of School Food Authority-level staff. For instance, much of State director training would relate to requirements from USDA. The flexibility offered to directors at the local level to count training conducted toward their annual training requirement is in recognition of limited resources and time at the local level, as well as overlapping training needs for directors, managers and staff. Therefore, school nutrition program directors will gain knowledge and insight necessary for their positions as they prepare for and conduct trainings for staff.

Use of Funds for Training

Proposed §235.6(a-1) would be amended to allow State agencies to utilize State administrative expense funds specifically for the purposes of their own State director annual continuing education/training, but not to obtain college credits.

Provision of Annual Training

Proposed §235.11(g)(4)(i) would require each State agency with responsibility for the NSLP and SBP to annually provide a minimum of 18 hours of training to school food authorities (applicable to any or all staff) and local educational agencies, as applicable. Training topics would include, but not be limited to: 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.

Proposed §235.11(g)(4)(ii) would require each State agency with responsibility for the distribution of USDA donated foods under part 250 of this chapter to provide or ensure receipt of continuing education/training to State distributing 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.

Because State agencies already conduct training and attend trainings, there is no additional administrative burden associated with this proposed rule. FNS anticipates there being a high level of flexibility for States in meeting this proposed requirement. State-provided training is an approved use of State administrative expense funds, and a variety of formats, including print, web-based, and in-person, could be used. States are encouraged to collaborate with each other, or with their State distributing agencies, to share potential training resources and best practices. States may also use contractors or partner with other organizations such as the School Nutrition Association or the National Food Service Management Institute to develop and/or provide training to the school food authorities and State distributing agencies.

Records and Recordkeeping

This proposed rule would also require each State agency to maintain a recordkeeping system that annually documents compliance with the professional standards requirements for all State Directors of school nutrition and State Directors of distributing agencies. Documentation must be adequate to support to FNS that directors are meeting the minimum professional standards. Proposed §235.11(g)(5) would require that States annually maintain records to adequately demonstrate compliance with the professional standards for State directors of school nutrition programs established in §235.11(g). Proposed §210.20(b)(15) would add professional standards to the requirements for States for reporting and recordkeeping purposes.

Failure to Comply

Proposed §235.11(g)(6) would require that the failure of State agencies to comply with the proposed standards for State directors, as discussed above, may result in recovery, withholding, or cancellation of payment of State administrative expense funds, as specified under existing §235.11(b). USDA will work with State agencies and school food authorities that do not fully meet the requirements and provide ongoing technical assistance and guidance in order to bring States into compliance. Actions resulting from failure to comply are anticipated to occur only in the most serious instances of noncompliance.

Oversight

Each State will be responsible for ensuring that each school food authority is monitoring the credentials and requirements for all school nutrition program employees. States will also ensure that school food authorities are maintaining a recordkeeping system of such credentials. As mentioned, this proposed rule would amend existing §210.18, Administrative review, to require State agencies to assess compliance with professional standards under the administrative review's general area areas.

Management evaluations of the State agency would include an FNS assessment of State agency compliance with professional standards. This assessment would include a review of whether the state directors of both school nutrition and distributing agencies are meeting the professional standards in this proposed regulation.

III. Procedural Matters

Executive Order 12866 and Executive Order 13563

Executive Order 12866 directs 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 proposed rule has been determined to be not significant. Accordingly, the rule will not be reviewed by the Office of Management and Budget.

Regulatory Impact Analysis

This rule has been determined to be not significant by the Office of Management and Budget; therefore a Regulatory Impact Analysis is not required.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (RFA) of 1980, (5 U.S.C. 601-612). Pursuant to that review, it has been certified that this rule will not have a significant impact on a substantial number of small entities. The administrative and operational requirements of the Program are simple. Therefore, FNS does not expect that the proposed rule will have a significant economic impact on small entities.

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 proposed 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.

Executive Order 13132

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 formal and informal discussions with State agency officials on an ongoing basis regarding the Child Nutrition Programs and policy issues. Prior to drafting this proposed rule and as noted above, FNS held several conference calls and meetings with the State agencies to discuss the statutory requirements addressed in this proposed rule. FNS also discussed the professional standards statutory requirements with program operators at their State conferences and received input which has been considered in drafting this proposed rule.

Nature of Concerns and the Need to Issue This Rule

State agencies requested clarification on application of proposed standards to current State and local directors, flexibility of acceptable formats for obtaining training, implementation dates, and oversight. These are discussed in the preamble.

Extent to Which We Meet Those Concerns

FNS has considered the impact of this proposed rule on State and local operators and has developed a rule that would implement the professional standards requirement in the most effective and least burdensome manner.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not 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. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. 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.

Executive Order 13175 - Consultation and Coordination with Indian Tribal Governments

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 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 coordinated by FNS and held on November 2, 2011; February 29, 2012; May 2, 2012; August 29, 2012; and February 13, 2013.

There were no comments about this regulation received during any of the aforementioned Tribal Consultation sessions. Reports from these consultations are part of the USDA annual reporting on Tribal consultation and collaboration. FNS will respond in a timely and meaningful manner to Tribal government requests for consultation concerning this rule.

Civil Rights Impact Analysis

FNS has reviewed this proposed 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 proposed 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 proposed 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 proposed rule is technical in nature, and it affects only the State agencies and the local educational agencies operations.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 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 proposed 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. These changes are contingent upon OMB approval under the Paperwork Reduction Act of 1995. When the information collection requirements have been approved, FNS will publish a separate action in the Federal Register announcing OMB's approval.

Comments on the information collection in this proposed rule must be received by [insert date that is 60 days after publication in the FEDERAL REGISTER]. Send comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for FNS, Washington, DC 20503. Please also send a copy of your comments to Lynn Rodgers-Kuperman, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, 3101 Park Center Drive, Alexandria, VA 22302. For further information, or for copies of the information collection requirements, please contact Lynn Rodgers-Kuperman at the address indicated above. Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the Agency's functions, including whether the information will have practical utility; (2) the accuracy of the Agency's estimate of the proposed information collection burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate

automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this request for comments will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

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

OMB Number: 0584-NEW

Expiration Date: Not yet determined

Type of Request: New collection

Abstract: Section 306 of the Healthy, Hunger-Free Kids Act (HHFKA) (P.L. 111-296) amends section 7 of the Child Nutrition Act (CNA) (42 U.S.C. 1776) by adding paragraph (g), "Professional Standards for School Food Service." This rule proposes to amend the 7 CFR part 210, the regulations governing the National School Lunch Program (NSLP) and 7 CFR part 235, the regulations governing State Administrative Expense Funds, consistent with amendments made by the HHFKA.

The NSLP is authorized under section 13 of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1761). This rule proposes to establish the criteria and procedures for implementing the provisions in section 7(g) of the CNA, as amended (42 U.S.C. 1776). To effect these provisions, the proposed rule would amend 7 CFR part 210 by redesignating §§210.30 and 210.31 as §§210.31 and 210.32, respectively. A new §210.30, School nutrition program professional standards, would be added. The proposed rule would also amend 7 CFR

part 210 by revising §§ 210.2, 210.15, 210.18, 210.20, and 210.31. The proposed rule would amend 7 CFR part 235 by revising §§235.4, 235.11, and 235.12, and making other conforming changes. The professional standards proposed in this rule represent minimum standards that State agencies, school food authorities, and schools would be required to meet. State agencies and/or local educational agencies would have the discretion to establish their own professional standards should they wish to do so, as long as such standards are not inconsistent with the minimum standards established by FNS through the rulemaking process. For instance, State may choose to consider additional factors such as State certificates as an aspect of their professional standards criteria.

This proposed rule is intended to provide consistent, national standards for school nutrition professionals and staff. The principal benefit of this proposed rule is to ensure that key school nutrition personnel are meeting minimum professional standards in order to adequately perform the duties and responsibilities of their positions. This rule does not carry any reporting burden. Recordkeeping burden details are provided below.

Affected Public: State Agencies, Local Educational Agencies and School Food Authorities, and Schools operating the NSLP

Estimated Number of Respondents: 122,661

Estimated Number of Responses per Respondent: 1

Estimated Total Annual Responses: 122,717

Estimate Time Per Response: 0.25

Estimated Total Annual Burden with proposed rule : 30,680

Current OMB Inventory for Part 210: 10,223,035

Total burden hours for Part 210 with proposed rule: 10,253,715

Difference (new burden requested with proposed rule): 30,680

Refer to the table below for estimated total annual burden.

Affected Public	Section	Estimated Number of Record-keepers	Records per Record-keeper	Average Annual Records	Average Burden per Record	Annual Burden Hours
Reporting (There is no reporting burden.)						
Recordkeeping						
State to annually maintain a recordkeeping system that documents compliance with the professional standards for State directors of school nutrition programs and distributing agencies to include credentials and continuing education/training standards.	7 CFR 210.20(b)(15); 235.11(g)(3); 235.11(g)(4)	56	2	112	0.25	28
LEA and SFA to annually maintain a recordkeeping system that documents the compliance with the professional standards for all school nutrition program employees	7 CFR 210.15(b)(8); 210.30(b)(2); 210.30(c); 210.30(d)	20,858	1	20,858	.25	5,215
Schools to annually maintain a recordkeeping system that documents the compliance with the professional standards for all school nutrition program employees.	7 CFR 210.15(b)(8); 210.30(b)(2); 210.30(c); 210.30(d)	101,747	1	101,747	.25	25,437
Total Estimated Recordkeeping Burden		122,661	---	122,717	---	30,680
Total of Reporting and Recordkeeping						
		Estimated Number of Record-keepers	**Records per Record-keeper**	**Average Annual Records**	**Average Burden per Record**	**Annual Burden Hours**
Reporting		---	---	---	---	---
Recordkeeping		122,661	---	122,717	.25	30,680
TOTAL		122,661	---	122,717	.25	30,680

E-Government Act Compliance

The Food and Nutrition Service is committed to complying with the E-Government Act, 2002, 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 proposed to be 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:

(a) Add definitions of School nutrition program directors, School nutrition program managers, and School nutrition program staff.

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), by removing the word "and" at the end;

(b) In paragraph (b)(7), by removing the period and adding "; and" in its place; and

(c) By adding paragraph (b)(8).

The addition reads as follows:

§210.15 Recordkeeping summary

* * * * *

(b) * * *

(8) Records 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(h) by adding new paragraph (h)(6) to read as follows:

§210.18 Administrative reviews.

* * * * *

(h) * * *

(6) 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), by removing the word "and" at the end;

(b) In paragraph (b)(14), by removing the period and adding "; and" in its place; and

(c) By adding paragraph (b)(15).

The addition reads as follows:

§210.20 Reporting and Recordkeeping

* * * * *

(b) * * *

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

6. Amend Part 210 by redesignating §210.30 and §210.31 as §210.31 and §210.32, respectively, and adding a new §210.30 to read as follows:

§210.30 School nutrition program professional standards.

(a) General. School food authorities 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)(1)(i)(B), (b)(1)(i)(C), or (b)(1)(i)(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 in food and nutrition, food service

management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business;

(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 five years of relevant school nutrition program experience. Directors hired under such criteria are strongly encouraged to work toward attaining an associate's degree in an academic major in the fields listed in paragraph (b)(1)(i)(C) of this section upon hiring.

(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)(1)(ii)(B), or (b)(1)(ii)(C) 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 in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business; or

(C) An associate's degree, or equivalent educational experience (bachelor's degree preferred), 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. 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 to 24,999 students. Directors must meet the requirements in either paragraph (b)(1)(iii)(A), or (b)(1)(iii)(B) 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; or

(B) A bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business.

(C) 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) School nutrition program directors with local educational agency enrollment of 25,000 or more students. Directors must meet the requirements in either paragraph (b)(1)(iv)(A), or (b)(1)(iv)(B) 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; or

(B) A bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business.

(C) 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.

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

(2) Summary of school nutrition program director education/prior training standards. The following chart summarizes the written requirements stated above:

Summary of School Nutrition Program Director Proposed 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 10,000-24,999	Student Enrollment 25,000 or more
Minimum Education Standards (required) *(new directors only)*	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. OR Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business; 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; and at least one year of relevant school nutrition programs experience; OR High school diploma (or GED) and 5 years of relevant experience in school nutrition programs.	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; OR Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business; 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; and at least one year of relevant school nutrition programs experience.	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; OR Bachelor's degree, or equivalent educational experience, with any academic major or area of concentration, and a State-recognized certificate in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, or business.	Same requirements as for 10,000-24,999

Minimum Education Standards (preferred) *(new directors only)*	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. At least one year of management experience, preferably in school nutrition, strongly recommended. 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.	Master's degree, or willingness to work toward master's degree, preferred. At least one year of management experience, preferably in school nutrition, strongly recommended. 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.
Minimum Prior Training Standards (required) *(new directors only)*	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.			

(3) Minimum required annual continuing education/training. Each school year, beginning with the first year of hire or July 1, 2015, whichever is later, the school food authority must ensure that all school nutrition program directors have completed at least fifteen hours of annual continuing education/training in the following topics: administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) and any other topics, as determined by FNS. 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 at least 12 hours of annual continuing education/training, or as otherwise specified by FNS. Continuing education/training will include the following topics:

(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 other appropriate topics, as determined by FNS.

(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, complete at least eight hours of annual continuing education/training in areas applicable to their job, or as otherwise specified by FNS. The required number of training hours for staff working an average of less than 20 hours per week must be proportional to the number of hours worked. Continuing education/training will include the following topics:

(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 other appropriate topics, as determined by FNS.

(e) Summary of required minimum continued education/training standards.

Summary of Proposed Required Minimum Continuing Education/Training Standards, for All Local Educational Agency Sizes	
New and Current Directors	Each year, at least 15 hours of annual continuing education/training. Includes topics such as: • administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) • any other appropriate topics as determined by FNS. This required continuing education/training is in addition to the food safety training required in the first year of employment.
New and Current Managers	Each year, at least 12 hours of annual continuing education/training. Includes topics such as: • administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) • the identification of reimbursable meals at the point of service • nutrition, health and safety standards • other topics, as specified by FNS
New and Current Staff (other than the director and managers) that work an average of at least 20 hours per week	Each year, at least 8 hours of annual continuing education/training. Includes topics such as: • free and reduced price eligibility • application, certification, and verification procedures • the identification of reimbursable meals at the point of service • nutrition, health and safety standards other topics, as specified by FNS

(f) Use of food service funds for training costs. Costs associated with annual continuing education/training required under subsections (b)(3), (c) and (d) of this section must be reasonable, allocable and necessary in accordance with the cost principles set forth in 2 CFR 225, Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A-87). Such costs may not include:

(1) Costs associated with paragraphs (b)(1)(i) through (iv) of this section.

(2) Costs associated with obtaining college credits to meet the requirements of paragraph (b)(2).

(g) School food authority oversight. Each school year, the school food authority shall 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 education/training required in paragraphs (c) and (d) of this section no later than the end of each school year.

* * * * *

7. Revise §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.

7 CFR section where requirements are described	Current OMB Control Number
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

8. 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).

9. 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, 226 of this chapter; provided that the State meets the training requirements set forth in §235.11(g).

* * * * *

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

§235.6 Use of funds.

* * * * *

(a) * * *

(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 are not allowable.

* * * * *

11. Amend §235.11 as follows:

(a) In paragraph (b)(2)(iv), by removing the word “and” at the end;

(b) In paragraph (b)(2)(v), by removing the period and adding “; and” in its place;

(c) By adding paragraph (b)(2)(vi); and

(d) By adding 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 hiring and training standards established by FNS.

(1) Hiring standards for State directors of school nutrition programs. Beginning July 1, 2015, the required minimum standards and criteria in the selection of newly hired State agency 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 must include:

(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, the required minimum standards and criteria in the selection of newly hired State agency directors with responsibility for the distribution of USDA donated foods under part 250 of this chapter must include:

(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) Minimum required annual continuing education/training standards for State directors of school nutrition programs and distributing agencies. Each school year, all State agency 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 on an annual basis, as necessary.

(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 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.

(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.

(5) Records and Recordkeeping. State agencies must annually retain records to adequately demonstrate compliance with the professional standards for State directors of school nutrition programs established in §235.11(g).

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

12. Revise § 235.12 to read as follows:

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

7 CFR section where requirements are described	Current OMB Control Number
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

_____ _____

Audrey Rowe
Administrator
Food and Nutrition Service

Date