

NATIONAL SCHOOL LUNCH PROGRAM

OMB CLEARANCE NUMBER 0584-New

**Professional Standards for State and Local Nutrition Programs Personnel for the National
School Lunch Program under the Healthy, Hunger-Free Kids Act of 2010**

7 CFR PARTS 210 and 235

RIN 0584-AE19

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1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information).

This is a new collection. The professional standards 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, States may choose to consider additional factors such as State certificates as an aspect of their professional standards criteria.

This final rule is intended to provide consistent, national standards for nutrition professionals. The principal benefit of this final 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.

The information collection burden included in this rule is necessary to ensure State agency and local educational agency compliance with legislative and regulatory requirements contained in the Healthy, Hunger-Free Kid's Act of 2010 (HHFKA).

OMB filed a comment on the proposed ICR under OMB Number 0584-0588. Upon approval of the final rule, FNS will merge the recordkeeping burden hours for State agencies, local educational agencies, and schools participating in the National School Lunch Program into OMB

control number #0584-0006 titled “ National School Lunch Program, OMB Control Number #0584-0006, expiration date February 29, 2016.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The purpose of this information collection associated with rulemaking is to comply with the requirements of (HHFKA) which made significant changes to the National School Lunch Act (NSLA), Section 306 of Public Law 111-296 for State agencies, local educational agencies, and school nutrition personnel. The final rule, “Professional Standards for State and Local School Nutrition Programs Personnel for the National School Lunch Program Under the Healthy, Hunger-Free Kids Acts of 2010” intends to provide consistent, national standards for school nutrition professionals (<http://www.fns.usda.gov/sites/default/files/CN2014-0130.pdf>). The principal benefit of this final 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. For details on how, by whom, and for what purpose the information is to be used, see the attached Burden Narrative.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

FNS is committed to complying with the E-Government Act of 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. This collection includes recordkeeping burden only which does not involve electronic collection techniques.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.

Every effort has been made to avoid duplication. FNS has reviewed USDA recordkeeping requirements, state administrative agency recordkeeping requirements, and special studies by other government and private agencies. FNS solely monitors and administers the Child Nutrition Programs.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Information being requested or required has been held to the minimum required for the intended use. No small entities are impacted by this collection of information.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The information is collected for the purpose of ensuring compliance with program regulations by State agencies, local educational agencies and local schools. If this information is not collected

or is collected less frequently, FNS would not be able to properly monitor program compliance and obtain data used for statistical studies and research regarding program trends to determine appropriate management of the program.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner that is inconsistent with 5 CFR 1320.5:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no circumstances that will cause the information collection to be inconsistent with the guidelines of 5 CFR 1320.5.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.

On February 4, 2014, a 60-day Federal Register Notice was embedded in the proposed rule titled "Professional Standards for State and Local School Nutrition Programs Personnel as Required by the Healthy, Hunger-Free Kids Acts of 2010." (Federal Register Vol.79, No. 23) Comments were received and evaluated on the information collection requirements during that time. During this time, interested members of the public had the opportunity to provide FNS with comments concerning the necessity, practical utility, accuracy, and merit of the information collection activities proposed. Comments were received and addressed as identified below.

- **Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting form, and on the data elements to be recorded, disclosed, or reported.**

When FNS revises an information collection package, the information is posted on the Agency Web page for review and comment by Regional Offices, State agencies, community groups, and the public. FNS also consults with Regional Offices regarding any proposed changes as the result of legislative, regulatory or administrative changes. Regional offices are in contact with State agencies which provide feedback on processes and procedures for the information collection. Comments received are designated below.

Recordkeeping Requirements

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

FNS Response: It appears there was misunderstanding regarding the proposed recordkeeping requirements. FNS estimated a one-time recordkeeping activity of 15 minutes per respondent (State agencies, SFAs/LEAs, and schools) to document compliance with annual training at the State and local levels. FNS understands that most State agencies and SFAs conduct annual training on a variety of topics prior to the beginning of the school year. Training

is sometimes offered on-the-job during the school year, or may be undertaken by an individual employee. We envision minimum recordkeeping associated with such these types of training activities. FNS is developing an optional online tool to help the school nutrition program director keep track of the training activities at the SFA level. With this tool, annual records can be generated for verification of training completed. Documentation such as copies of the training agenda, sign-up sheets, and other paper documents would also be acceptable. How to maintain the records is a local decision.

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

SFA Oversight to Certify Compliance

Public Comments: Twenty-seven commenters addressed the requirement in §210.30(g) of the proposed rule, which stipulates that the SFAs must document compliance with the professional standard requirements each school year, including certifying the program director meets the hiring and training standards and that each employee has completed the applicable required training no later than the end of each school year. Commenters requested information about the certificate program planned by FNS to help SFAs meet the oversight requirement. In addition, several commenters suggested aligning such national-level certificate program with existing State level credentialing/certification systems to ensure consistency.

FNS Response: An SFA must review an employee's continuing education/training progress periodically throughout the year to certify that each employee is or will be in compliance with the training requirements by the end of each school year. FNS is developing a certificate system to help SFAs recognize various levels of training achievement and conduct its oversight responsibilities. Information about the certificate system will be provided separately before implementation of the professional standards. Accordingly, this final rule codifies the SFA oversight requirement in §210.30(g).

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The Department complies with the Privacy Act of 1974. No confidential information is associated with this information collection.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be

given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature included in this clearance package.

12. Provide estimates of the hour burden of the information collection. The statement should include:

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.

FNS is requesting an estimated 30,680 hours for recordkeeping. The records are completed by States, local educational agencies, and schools. Recordkeeping requirements are included in the burden. The following table reflects burden associated with the new information collection requirements.

**ESTIMATED ANNUAL BURDEN FOR 0584-NEW,
PROFESSIONAL STANDARDS FOR STATE AND LOCAL SCHOOL NUTRITION
PROGRAMS PERSONNEL UNDER THE HEALTHY, HUNGER-FREE KIDS ACT OF
2010**

7 CFR PART 210 AND 235

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	.25	30,680
Total of Reporting and Recordkeeping						
		Estimated	Records	Average	Average	Annual

		Number of Record-keepers	per Record-keeper	Annual Records	Burden per Record	Burden Hours
Reporting		---	---	---	---	---
Recordkeeping		122,661	---	122,717	.25	30,680
TOTAL		122,661	---	122,717	.25	30,680
SUMMARY OF BURDEN (OMB #0584-NEW 7 CFR 210 AND 235)						
TOTAL NO. RESPONDENTS						122,661
AVERAGE NO. RESPONSES PER RESPONDENT						1
TOTAL ANNUAL RESPONSES						122,717
AVERAGE HOURS PER RESPONSE						0.25
TOTAL NEW BURDEN REQUESTED WITH FINAL RULE						30,680
CURRENT OMB INVENTORY						0
DIFFERENCE (NEW BURDEN REQUESTED WITH FINAL RULE)						30,680*

* These hours will be merged with OMB #0584-0006

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

The estimate of respondent cost is based on the burden estimates and utilizes the U.S.

Department of Labor, Bureau of Labor Statistics, May 2013 National Occupational and Wage Estimates Statistics, Occupational Group 25-0000

(<http://www.bls.gov/bls/wages.htm>). The hourly mean wage (for education-related occupations) for functions performed by State agency staff is estimated at \$24.76 per staff hour.

TOTAL COST TO THE PUBLIC = 30,680 hours X \$24.76 per hour = \$ 759,636.80

- 13. Provide estimates of the total annual cost burden to respondents or recordkeepers resulting from the collection of information, (do not include the cost of any hour burden**

shown in items 12 and 14). The cost estimates should be split into two components:

(a) a total capital and start-up cost component annualized over its expected useful life; and

(b) a total operation and maintenance and purchase of services component.

There is no start-up or annual maintenance costs for this collection of information.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

It is estimated that federal employees receiving an average General Schedule (GS) grade 12 step 6 wage based on the Washington DC-Northern Virginia locality area will spend approximately 40 hours in communication with State agencies (SA) regarding the standards at a cost of $\$42.27 \times 40 = \$1,690.80$ (estimated annualized cost to federal government).

15. Explain the reasons for any program changes or adjustments reported in item 13 or 14 of the OMB 83-I.

This is a new collection. As a result of program changes associated with rulemaking for 0584-NEW, Professional Standards for State and Local School Nutrition Programs Personnel for the National School Lunch Program under the Healthy, Hunger-Free Kids Acts of 2010. This information collection will increase the OMB inventory by 30,680 burden hours for recordkeeping to comply with the statutory requirements in Section 306 of Public Law 111-296.

There are no changes in recordkeeping burden between proposed rule and final rule.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.

This collection does not entail planned statistical use and there are no plans to publish the results of this collection for statistical analyses.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We are not seeking approval concerning the display of the expiration date.

18. Explain each exception to the certification statement identified in Item 19

"Certification for Paperwork Reduction Act."

There are no exceptions to the certification statement.