

Attachment K: 7 CFR 210.18(c-h)

§210.18 Administrative reviews.

(c) *Timing of reviews.* State agencies must conduct administrative reviews of all school food authorities participating in the National School Lunch Program (including the Afterschool Snacks and the Seamless Summer Option) and School Breakfast Program at least once during a 3-year review cycle, provided that each school food authority is reviewed at least once every 4 years. For each State agency, the first 3-year review cycle started the school year that began on July 1, 2013, and ended on June 30, 2014. At a minimum, the on-site portion of the administrative review must be completed during the school year in which the review was begun.

(1) *Review cycle exceptions.* FNS may, on an individual school food authority basis, approve written requests for 1-year extensions to the 3-year review cycle specified in paragraph (c) of this section if FNS determines this 3-year cycle requirement conflicts with efficient State agency management of the programs.

(2) *Follow-up reviews.* The State agency may conduct follow-up reviews in school food authorities where significant or repeated critical or general violations exist. The State agency may conduct follow-up reviews in the same school year as the administrative review.

(d) *Scheduling school food authorities.* The State agency must use its own criteria to schedule school food authorities for administrative reviews; provided that the requirements of paragraph (c) of this section are met. State agencies may take into consideration the findings of the claims review process required under §210.8(b)(2) in the selection of school food authorities.

(1) *Schedule of reviews.* To ensure no unintended overlap occurs, the State agency must inform FNS of the anticipated schedule of school food authority reviews upon request.

(2) *Exceptions.* In any school year in which FNS or the Office of the Inspector General (OIG) conducts a review or investigation of a school food authority in accordance with §210.19(a)(4), the State agency must, unless otherwise authorized by FNS, delay conduct of a scheduled administrative review until the following school year. The State agency must document any exception authorized under this paragraph.

(e) *Number of schools to review.* At a minimum, the State agency must review the number of schools specified in paragraph (e)(1) of this section and must select the schools to be reviewed on the basis of the school selection criteria specified in paragraph (e)(2) of this section. The State agency may review all schools meeting the school selection criteria specified in paragraph (e)(2) of this section.

(1) *Minimum number of schools.* State agencies must review at least one school from each local education agency. Except for residential child care institutions, the State agency must review all schools with a free average daily participation of 100 or more and a free participation factor of 100 percent or more. In no event must the State agency review less than the minimum number of schools illustrated in Table A for the National School Lunch Program.

TABLE A

Number of schools in the school food authority	Minimum number of schools to review
1 to 5	1

6 to 10	2
11 to 20	3
21 to 40	4
41 to 60	6
61 to 80	8
81 to 100	10
101 or more	*12

*Twelve plus 5 percent of the number of schools over 100. Fractions must be rounded up (>0.5) or down (<0.5) to the nearest whole number.

(2) *School selection criteria.* (i) Selection of additional schools to meet the minimum number of schools required under paragraph (e)(1) of this section, must be based on the following criteria:

(A) Elementary schools with a free average daily participation of 100 or more and a free participation factor of 97 percent or more;

(B) Secondary schools with a free average daily participation of 100 or more and a free participation factor of 77 percent or more; and

(C) Combination schools with a free average daily participation of 100 or more and a free participation factor of 87 percent or more. A combination school means a school with a mixture of elementary and secondary grades.

(ii) When the number of schools selected on the basis of the criteria established in paragraph (e)(2)(i) of this section is not sufficient to meet the minimum number of schools required under paragraph (e)(1) of this section, the additional schools selected for review must be identified using State agency criteria which may include low participation schools; recommendations from a food service director based on findings from the on-site visits or the claims review process required under §210.8(a); or any school in which the daily meal counts appear questionable (*e.g.*, identical or very similar claiming patterns, or large changes in free meal counts).

(iii) In selecting schools for an administrative review of the School Breakfast Program, State agencies must follow the selection criteria set forth in this paragraph and FNS' *Administrative Review Manual*. At a minimum:

(A) In school food authorities operating only the breakfast program, State agencies must review the number of schools set forth in Table A in paragraph (e)(1) of this section.

(B) In school food authorities operating both the lunch and breakfast programs, State agencies must review the breakfast program in 50 percent of the schools selected for an administrative review under paragraph (e)(1) of this section that operate the breakfast program.

(C) If none of the schools selected for an administrative review under paragraph (e)(1) of this section operates the breakfast program, but the school food authority operates the program elsewhere, the State agency must follow procedures in the FNS *Administrative Review Manual* to select at least one other site for a school breakfast review.

(3) *Site selection for other federal program reviews*—(i) *National School Lunch Program's Afterschool Snacks*. If a school selected for an administrative review under this section operates Afterschool Snacks, the State agency must review snack documentation for compliance with program requirements, according to the *FNS Administrative Review Manual*. Otherwise, the State agency is not required to review the Afterschool Snacks.

(ii) *National School Lunch Program's Seamless Summer Option*. The State agency must review Seamless Summer Option at a minimum of one site if the school food authority selected for review under this section operates the Seamless Summer Option. This review can take place at any site within the reviewed school food authority the summer before or after the school year in which the administrative review is scheduled. The State agency must review the Seamless Summer Option for compliance with program requirements, according to the *FNS Administrative Review Manual*.

(iii) *Fresh Fruit and Vegetable Program*. The State agency must review the Fresh Fruit and Vegetable Program at one or more of the schools selected for an administrative review, as specified in Table B. If none of the schools selected for the administrative review operates the Fresh Fruit and Vegetable Program but the school food authority operates the Program elsewhere, the State agency must follow procedures in the *FNS Administrative Review Manual* to select one or more sites for the program review.

TABLE B

Number of schools selected for an NSLP administrative review that operate the FFVP	Minimum number of FFVP schools to be reviewed
0 to 5	1
6 to 10	2
11 to 20	3
21 to 40	4
41 to 60	6
61 to 80	8
81 to 100	10
101 or more	12*

*Twelve plus 5 percent of the number of schools over 100. Fractions must be rounded up (>0.5) or down (<0.5) to the nearest whole number.

(iv) *Special Milk Program*. If a school selected for review under this section operates the Special Milk Program, the State agency must review the school's program documentation off-site or on-site, as prescribed in the *FNS Administrative Review Manual*. On-site review is only required if the State agency has identified documentation problems or if the State agency has identified meal counting or claiming errors in the reviews conducted under the National School Lunch Program or School Breakfast Program.

(4) *Pervasive problems*. If the State agency review finds pervasive problems in a school food authority, FNS may authorize the State agency to cease review activities prior to reviewing the required number of

schools under paragraphs (e)(1) and (e)(3) of this section. Where FNS authorizes the State agency to cease review activity, FNS may either conduct the review activity itself or refer the school food authority to OIG.

(5) *Noncompliance with meal pattern requirements.* If the State agency determines there is significant noncompliance with the meal pattern and nutrition requirements set forth in §210.10 and §220.8 of this chapter, as applicable, the State agency must select the school food authority for administrative review earlier in the review cycle.

(f) *Scope of review.* During the course of an administrative review for the National School Lunch Program and the School Breakfast Program, the State agency must monitor compliance with the critical and general areas in paragraphs (g) and (h) of this section, respectively. State agencies may add additional review areas with FNS approval. Selected critical and general areas must be monitored when reviewing the National School Lunch Program's Afterschool Snacks and the Seamless Summer Option, the Special Milk Program, and the Fresh Fruit and Vegetable Program, as applicable and as specified in the *FNS Administrative Review Manual*.

(1) *Review forms.* State agencies must use the administrative review forms, tools and workbooks prescribed by FNS.

(2) *Timeframes covered by the review.* (i) The timeframes covered by the administrative review includes the review period and the day of review, as defined in paragraph (b) of this section.

(ii) Subject to FNS approval, the State agency may conduct a review early in the school year, prior to the submission of a Claim for Reimbursement. In such cases, the review period must be the prior month of operation in the current school year, provided that such month includes at least 10 operating days.

(3) *Audit findings.* To prevent duplication of effort, the State agency may use any recent and currently applicable findings from Federally-required audit activity or from any State-imposed audit requirements. Such findings may be used only insofar as they pertain to the reviewed school(s) or the overall operation of the school food authority and they are relevant to the review period. The State agency must document the source and the date of the audit.

(g) *Critical areas of review.* The performance standards listed in this paragraph are directly linked to meal access and reimbursement, and to the meal pattern and nutritional quality of the reimbursable meals offered. These critical areas must be monitored by the State agency when conducting administrative reviews of the National School Lunch Program and the School Breakfast Program. Selected aspects of these critical areas must also be monitored, as applicable, when conducting administrative reviews of the National School Lunch Program's Afterschool Snacks and the Seamless Summer Option, and of the Special Milk Program.

(1) *Performance Standard 1 (All free, reduced price and paid school meals claimed for reimbursement are served only to children eligible for free, reduced price and paid school meals, respectively; and are counted, recorded, consolidated and reported through a system which consistently yields correct claims.)* The State agency must follow review procedures stated in this section and as specified in the *FNS Administrative Review Manual* to ensure that the school food authority's certification and benefit issuance processes for school meals offered under the National School Lunch Program, and School Breakfast Program are conducted as required in part 245 of this chapter, as applicable. In addition, the State agency must ensure that benefit counting, consolidation, recording and claiming are conducted as required in this part and part 220 of this chapter for the National School Lunch Program and the School Breakfast Program, respectively. The State agency must also follow procedures consistent with this section, and as specified in the *FNS Administrative Review Manual*, to review applicable areas of Performance Standard 1 in the National School Lunch Program's Afterschool Snacks and Seamless Summer Option, and in the Special Milk Program.

(i) *Certification and benefit issuance.* The State agency must gather information and monitor the school food authority's compliance with program requirements regarding benefit application, direct certification, and categorical eligibility, as well as the transfer of benefits to the point-of-service benefit issuance document. To review this area, the State agency must obtain the benefit issuance document for each participating school under the jurisdiction of the school food authority for the day of review or a day in the review period, review all or a statistically valid sample of student certifications, and validate that the eligibility certification for free and reduced price meals was properly transferred to the benefit issuance document and reflects changes due to verification findings, transfers, or a household's decision to decline benefits. If the State agency chooses to review a statistically valid sample of student certifications, the State agency must use a sample size with a 99 percent confidence level of accuracy. However, a sample size with a 95 percent confidence level of accuracy may be used if a school food authority uses an electronic benefit issuance and certification system with no manual data entry and the State agency has not identified any potential systemic noncompliance. Any sample size must be large enough so that there is a 99 or 95 percent, as applicable, chance that the actual accuracy rate for all certifications is not less than 2 percentage points less than the accuracy rate found in the sample (*i.e.*, the lower bound of the one-sided 99/95 percent confidence interval is no more than 2 percentage points less than the point estimate).

(ii) *Meal counting and claiming.* The State agency must gather information and conduct an on-site visit to ensure that the processes used by the school food authority and reviewed school(s) to count, record, consolidate, and report the number of reimbursable meals/snacks served to eligible students by category (*i.e.*, free, reduced price or paid meal) are in compliance with program requirements and yield correct claims. The State agency must determine whether:

(A) The daily meal counts, by type, for the review period are more than the product of the number of children determined by the school/school food authority to be eligible for free, reduced price, and paid meals for the review period times an attendance factor. If the meal count, for any type, appears questionable or significantly exceeds the product of the number of eligibles, for that type, times an attendance factor, documentation showing good cause must be available for review by the State agency.

(B) For each school selected for review, each type of food service line provides accurate point of service meal counts, by type, and those meal counts are correctly counted and recorded. If an alternative counting system is employed (in accordance with §210.7(c)(2)), the State agency shall ensure that it provides accurate counts of reimbursable meals, by type, and is correctly implemented as approved by the State agency.

(C) For each school selected for review, all meals are correctly counted, recorded, consolidated and reported for the day they are served.

(2) *Performance Standard 2 (Lunches claimed for reimbursement by the school food authority meet the meal requirements in §210.10, as applicable to the age/grade group reviewed. Breakfasts claimed for reimbursement by the school food authority meet the meal requirements in §220.8 of this chapter, as applicable to the age/grade group reviewed.)* The State agency must follow review procedures, as stated in this section and detailed in the *FNS Administrative Review Manual*, to ensure that meals offered by the school food authority meet the food component and quantity requirements and the dietary specifications for each program, as applicable. Review of these critical areas may occur off-site or on-site. The State agency must also follow procedures consistent with this section, as specified in the *FNS Administrative Review Manual*, to review applicable areas of Performance Standard 2 in the National School Lunch Program's Afterschool Snacks and Seamless Summer Option, and in the Special Milk Program.

(i) *Food components and quantities.* For each school selected for review, the State agency must complete a USDA-approved menu tool, review documentation, and observe the meal service to ensure that meals offered by the reviewed schools meet the meal patterns for each program. To review this area, the State agency must:

(A) Review menu and production records for the reviewed schools for a minimum of one school week (*i.e.*, a minimum number of three consecutive school days and a maximum of seven consecutive school days) from the review period. Documentation, including food crediting documentation, such as food labels, product formulation statements, CN labels and bid documentation, must be reviewed to ensure compliance with the lunch and breakfast meal patterns. If the documentation review reveals problems with food components or quantities, the State agency must expand the review to, at a minimum, the entire review period. The State agency should consider a school food authority compliant with the school meal pattern if:

(1) When evaluating the daily and weekly range requirements for grains and meat/meat alternates, the documentation shows compliance with the daily and weekly minimums for these components, regardless of whether the school food authority has exceeded the recommended weekly maximums for the same components.

(2) When evaluating the service of frozen fruit, the State agency determines that the school food authority serves frozen fruit with or without added sugar.

(B) On the day of review, the State agency must:

(1) Observe a significant number of program meals, as described in the *FNS Administrative Review Manual*, at each serving line and review the corresponding documentation to determine whether all reimbursable meal service lines *offer* all of the required food components/items and quantities for the age/grade groups being served, as required under §210.10, as applicable, and §220.8 of this chapter, as applicable. Observe meals at the beginning, middle and end of the meal service line, and confirm that signage or other methods are used to assist students in identifying the reimbursable meal. If the State agency identifies missing components or inadequate quantities prior to the beginning of the meal service, it must inform the school food authority and provide an opportunity to make corrections. Additionally, if visual observation suggests that quantities offered are insufficient or excessive, the State agency must require the reviewed schools to provide documentation demonstrating that the required amounts of each component were available for service for each day of the review period.

(2) Observe a significant number of the program meals counted at the point of service for each type of serving line to determine whether the meals *selected* by the students contain the food components and food quantities required for a reimbursable meal under §210.10, as applicable, and §220.8 of this chapter, as applicable.

(3) If Offer versus Serve is in place, observe whether students select at least three food components at lunch and at least three food items at breakfasts, and that the lunches and breakfasts include at least ½ cup of fruits or vegetables.

(ii) *Dietary specifications.* The State agency must conduct a meal compliance risk assessment for each school selected for review to determine which school is at highest risk for nutrition-related violations. The State agency must conduct a targeted menu review for the school at highest risk for noncompliance using one of the options specified in the *FNS Administrative Review Manual*. Under the targeted menu review options, the State agency may conduct or validate an SFA-conducted nutrient analysis for both lunch and breakfast, or further evaluate risk for noncompliance and, at a minimum, conduct a nutrient analysis if further examination shows the school is at high risk for noncompliance with the dietary specifications in §210.10 and §220.8 of this chapter. The State agency is not required to assess compliance with the dietary specifications when reviewing meals for preschoolers, and the National School Lunch Program's Afterschool Snacks and the Seamless Summer Option.

(iii) *Performance-based cash assistance.* If the school food authority is receiving performance-based cash assistance under §210.7(d), the State agency must assess the school food authority's meal service and

documentation of lunches served and determine its continued eligibility for the performance-based cash assistance.

(h) *General areas of review.* The general areas listed in this paragraph reflect requirements that must be monitored by the State agency when conducting administrative reviews of the National School Lunch Program and the School Breakfast Program. Selected aspects of these general areas must also be monitored, as applicable and as specified in the FNS *Administrative Review Manual*, when conducting administrative reviews of the National School Lunch Program's Afterschool Snacks and Seamless Summer Option, the Fresh Fruit and Vegetable Program, and the Special Milk Program. The general areas of review must include, but are not limited to, the following:

(1) *Resource management.* The State agency must conduct an off-site assessment of the school food authority's nonprofit school food service to evaluate the risk of noncompliance with resource management requirements. If risk indicators show that the school food authority is at high risk for noncompliance with resource management requirements, the State agency must conduct a comprehensive review including, but not limited to, the following areas using procedures specified in the FNS *Administrative Review Manual*.

(i) *Maintenance of the nonprofit school food service account.* The State agency must confirm the school food authority's resource management is consistent with the maintenance of the nonprofit school food service account requirements in §§210.2, 210.14, 210.19(a), and 210.21.

(ii) *Paid lunch equity.* The State agency must review compliance with the requirements for pricing paid lunches in §210.14(e).

(iii) *Revenue from nonprogram foods.* The State agency must ensure that all non-reimbursable foods sold by the school food service, including, but not limited to, a la carte food items, adult meals, and vended meals, generate at least the same proportion of school food authority revenues as they contribute to school food authority food costs, as required in §210.14(f).

(iv) *Indirect costs.* The State agency must ensure that the school food authority follows fair and consistent methodologies to identify and allocate allowable indirect costs to school food service accounts, as required in 2 CFR part 200 and §210.14(g).

(2) *General Program Compliance—(i) Free and reduced price process.* In the course of the review of each school food authority, the State agency must:

(A) Confirm the free and reduced price policy statement, as required in §245.10 of this chapter, is implemented as approved.

(B) Ensure that the process used to verify children's eligibility for free and reduced price meals in a sample of household applications is consistent with the verification requirements, procedures, and deadlines established in §245.6a of this chapter.

(C) Determine that, for each reviewed school, the meal count system does not overtly identify children eligible for free and reduced price meals, as required under §245.8 of this chapter.

(D) Review at least 10 denied applications to evaluate whether the determining official correctly denied applicants for free and reduced price meals, and whether denied households were provided notification in accordance with §245.6(c)(7) of this chapter.

(E) Confirm that a second review of applications has been conducted and that information has been correctly reported to the State agency as required in §245.11, if applicable.

(ii) *Civil rights.* The State agency must examine the school food authority's compliance with the civil rights provisions specified in §210.23(b) to ensure that no child is denied benefits or otherwise discriminated against in any of the programs reviewed under this section because of race, color, national origin, age, sex, or disability.

(iii) *School food authority on-site monitoring.* The State agency must ensure that the school food authority conducts on-site reviews of each school under its jurisdiction, as required by §§210.8(a)(1) and 220.11(d) of this chapter, and monitors claims and readily observable general areas of review in accordance with §§210.8(a)(2) and (a)(3), and 220.11(d) of this chapter.

(iv) *Competitive food standards.* The State agency must ensure that the local educational agency and school food authority comply with the nutrition standards for competitive foods in §§210.11 and 220.12 of this chapter, and retain documentation demonstrating compliance with the competitive food service and standards.

(v) *Water.* The State agency must ensure that water is available and accessible to children at no charge as specified in §§210.10(a)(1)(i) and 220.8(a)(1) of this chapter.

(vi) *Food safety.* The State agency must examine records to confirm that each school food authority under its jurisdiction meets the food safety requirements of §210.13.

(vii) *Reporting and recordkeeping.* The State agency must determine that the school food authority submits reports and maintains records in accordance with program requirements in this part, and parts 220 and 245 of this chapter, and as specified in the *FNS Administrative Review Manual*.

(viii) *Program outreach.* The State agency must ensure the school food authority is conducting outreach activities to increase participation in the School Breakfast Program and the Summer Food Service Program, as required in §210.12(d). If the State agency administering the Summer Food Service Program is not the same State agency that administers the National School Lunch Program, then the two State agencies must work together to implement outreach measures.

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

(x) *Local school wellness.* The State agency shall ensure the local educational agency complies with the local school wellness requirements set forth in §210.30.