

# ATTACHMENT 1: Legal Authority

## FOOD PROGRAMS REPORTING SYSTEM REPORTING REQUIREMENTS

OMB No. 0584-0594

Associated with Final Rule: “Employment and Training Opportunities in the Supplemental Nutrition Assistance Program,” (RIN 0584-AE68)

## Section 6(d)(4) of the Food and Nutrition Act, as amended

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equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours; or (F) a person between the ages of sixteen and eighteen who is not a head of a household or who is attending school, or enrolled in an employment training program, on at least a half-time basis. A State that requested a waiver to lower the age specified in subparagraph (B) and had the waiver denied by the Secretary as of August 1, 1996, may, for a period of not more than 3 years, lower the age of a dependent child that qualifies a parent or other member of a household for an exemption under subparagraph (B) to between 1 and 6 years of age.

(3) Notwithstanding any other provision of law, a household shall not participate in the supplemental nutrition assistance program at any time that any member of such household, not exempt from the work registration requirements of paragraph (1) of this subsection, is on strike as defined in section 501(2) of the Labor Management Relations Act, 1947, [(29 U.S.C. 142(2))] because of a labor dispute (other than a lockout) as defined in section 2(9) of the National Labor Relations Act [(29 U.S.C. 152(9))]; *Provided*, That a household shall not lose its eligibility to participate in the supplemental nutrition assistance program as a result of one of its members going on strike if the household was eligible immediately prior to such strike, however, such household shall not receive an increased allotment as the result of a decrease in the income of the striking member or members of the household: *Provided further*, That such ineligibility shall not apply to any household that does not contain a member on strike, if any of its members refuses to accept employment at a plant or site because of a strike or lockout.

### (4) EMPLOYMENT AND TRAINING.—

#### (A) IN GENERAL.—

(i) IMPLEMENTATION.—Each State agency shall implement an employment and training program designed by the State agency and approved by the Secretary for the purpose of assisting members of households participating in the supplemental nutrition assistance program in gaining skills, training, work, or experience that will increase their ability to obtain regular employment.

(ii) STATEWIDE WORKFORCE DEVELOPMENT SYSTEM.—Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through such a system.

(B) For purposes of this Act, an “employment and training program” means a program that contains one or more of the following components, except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application:

#### (i) Job search programs.

(ii) Job search training programs that include, to the extent determined appropriate by the State agency, reasonable job search training and support activities that may consist of jobs skills assessments, job finding clubs, training in tech-

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niques for employability, job placement services, or other direct training or support activities, including educational programs, determined by the State agency to expand the job search abilities or employability of those subject to the program.

(iii) Workfare programs operated under section 20.

(iv) Programs designed to improve the employability of household members through actual work experience or training, or both, and to enable individuals employed or trained under such programs to move promptly into regular public or private employment. An employment or training experience program established under this clause shall—

(I) not provide any work that has the effect of replacing the employment of an individual not participating in the employment or training experience program; and

(II) provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours.

(v) Educational programs or activities to improve basic skills and literacy, or otherwise improve employability, including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program under this paragraph.

(vi) Programs designed to increase the self-sufficiency of recipients through self-employment, including programs that provide instruction for self-employment ventures.

(vii) Programs intended to ensure job retention by providing job retention services, if the job retention services are provided for a period of not more than 90 days after an individual who received employment and training services under this paragraph gains employment.

(viii) As approved by the Secretary or the State under regulations issued by the Secretary, other employment, educational and training programs, projects, and experiments, such as a supported work program, aimed at accomplishing the purpose of the employment and training program.

(C) The State agency may provide that participation in an employment and training program may supplement or supplant other employment-related requirements imposed on those subject to the program.

(D)(i) Each State agency may exempt from any requirement for participation in any program under this paragraph categories of household members.

(ii) Each State agency may exempt from any requirement for participation individual household members not included in any category designated as exempt under clause (i).

(iii) Any exemption of a category or individual under this subparagraph shall be periodically evaluated to determine whether the exemption continues to be valid.

(E) Each State agency shall establish requirements for participation by individuals not exempt under subparagraph (D) in one or more employment and training programs under this paragraph, including the extent to which any individual is required to participate. Such requirements may vary among participants.

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(F)(i) The total hours of work in an employment and training program carried out under this paragraph required of members of a household, together with the hours of work of such members in any program carried out under section 20, in any month collectively may not exceed a number of hours equal to the household's allotment for such month divided by the higher of the applicable State minimum wage or Federal minimum hourly rate under the Fair Labor Standards Act of 1938 [(29 U.S.C. 201 et seq.)].

(ii) The total hours of participation in such program required of any member of a household, individually, in any month, together with any hours worked in another program carried out under section 20 and any hours worked for compensation (in cash or in kind) in any other capacity, shall not exceed one hundred and twenty hours per month.

(iii) Any individual voluntarily electing to participate in a program under this paragraph shall not be subject to the limitations described in clauses (i) and (ii).

(G) The State agency may operate any program component under this paragraph in which individuals elect to participate.

(H) Federal funds made available to a State agency for purposes of the component authorized under subparagraph (B)(v) shall not be used to supplant non-Federal funds used for existing services and activities that promote the purposes of this component.

(I)(i) The State agency shall provide payments or reimbursements to participants in programs carried out under this paragraph, including individuals participating under subparagraph (G), for—

(I) the actual costs of transportation and other actual costs (other than dependent care costs), that are reasonably necessary and directly related to participation in the program; and

(II) the actual costs of such dependent care expenses that are determined by the State agency to be necessary for the participation of an individual in the program (other than an individual who is the caretaker relative of a dependent in a family receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in a local area where an employment, training, or education program under title IV of such Act is in operation), except that no such payment or reimbursement shall exceed the applicable local market rate. Individuals subject to the program under this paragraph may not be required to participate if dependent costs exceed the limit established by the State agency under this subclause or other actual costs exceed any limit established under subclause (I).

(ii) In lieu of providing reimbursements or payments for dependent care expenses under clause (i), a State agency may, at its option, arrange for dependent care through providers by the use of purchase of service contracts or vouchers or by providing vouchers to the household.

(iii) The value of any dependent care services provided for or arranged under clause (ii), or any amount received as a payment or reimbursement under clause (i), shall—

(I) not be treated as income for the purposes of any other Federal or federally assisted program that bases eligibility for, or the amount of benefits on, need; and

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(II) not be claimed as an employment-related expense for the purposes of the credit provided under section 21 of the Internal Revenue Code of 1986.

(J) The Secretary shall promulgate guidelines that (i) enable State agencies, to the maximum extent practicable, to design and operate an employment and training program that is compatible and consistent with similar programs operated within the State, and (ii) ensure, to the maximum extent practicable, that employment and training programs are provided for Indians on reservations.

(K) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including funds used to carry out subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.).

(L) The Secretary shall ensure that State agencies comply with the requirements of this paragraph and section 11(e)(19).

(M) The facilities of the State public employment offices and other State agencies and providers carrying out activities under title I of the Workforce Innovation and Opportunity Act may be used to find employment and training opportunities for household members under the programs under this paragraph.

(e) No individual who is a member of a household otherwise eligible to participate in the supplemental nutrition assistance program under this section shall be eligible to participate in the supplemental nutrition assistance program as a member of that or any other household if the individual is enrolled at least half-time in an institution of higher education, unless the individual—

- (1) is under age 18 or is age 50 or older;
- (2) is not physically or mentally fit;
- (3) is assigned to or placed in an institution of higher education through or in compliance with the requirements of—

(A) a program under title I of the Workforce Innovation and Opportunity Act;

(B) an employment and training program under this section, subject to the condition that the course or program of study—

(i) is part of a program of career and technical education (as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302)) that may be completed in not more than 4 years at an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)); or

(ii) is limited to remedial courses, basic adult education, literacy, or English as a second language;

(C) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

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- (F) would be operated in accordance with an adequate plan for—
- (i) continuous updating to reflect changed policy and circumstances; and
  - (ii) testing the effect of the system on access for eligible households and on payment accuracy.
- (2) LIMITATION.—The Secretary shall not make payments to a State agency under paragraph (1) to the extent that the State agency—
- (A) is reimbursed for the costs under any other Federal program; or
  - (B) uses the systems for purposes not connected with the supplemental nutrition assistance program.
- (h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—
- (1) IN GENERAL.—
    - (A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies, to remain available for 24 months, from funds made available for each fiscal year under section 18(a)(1), \$90,000,000 for each fiscal year.
    - (B) ALLOCATION.—Funds made available under subparagraph (A) shall be made available to and reallocated among State agencies under a reasonable formula that—
      - (i) is determined and adjusted by the Secretary; and
      - (ii) takes into account the number of individuals who are not exempt from the work requirement under section 6(o).
    - (C) REALLOCATION.—
      - (i) IN GENERAL.—If a State agency will not expend all of the funds allocated to the State agency for a fiscal year under subparagraph (B), the Secretary shall reallocate the unexpended funds to other States (during the fiscal year or the subsequent fiscal year) as the Secretary considers appropriate and equitable.
      - (ii) TIMING.—The Secretary shall collect such information as the Secretary determines to be necessary about the expenditures and anticipated expenditures by the State agencies of the funds initially allocated to the State agencies under subparagraph (A) to make reallocations of unexpended funds under clause (i) within a timeframe that allows each State agency to which funds are reallocated at least 270 days to expend the reallocated funds.
      - (iii) OPPORTUNITY.—The Secretary shall ensure that all State agencies have an opportunity to obtain reallocated funds.
    - (D) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than \$50,000 for each fiscal year.
    - (E) ADDITIONAL ALLOCATIONS FOR STATES THAT ENSURE AVAILABILITY OF WORK OPPORTUNITIES.—

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(9) The State agency will submit an E&T Program Activity Report to FNS no later than 45 days after the end of each Federal fiscal quarter. The report will contain monthly figures for:

(i) Participants newly work registered;

(ii) Number of ABAWD applicants and recipients participating in qualifying components;

(iii) Number of all other applicants and recipients (including ABAWDs involved in non-qualifying activities) participating in components; and

(iv) ABAWDs subject to the 3-month time limit imposed in accordance with [§ 273.24\(b\)](#) who are exempt under the State agency's discretionary exemptions under [§ 273.24\(g\)](#).

(10) The State agency will submit annually, on its first quarterly report, the number of work registrants in the State on October 1 of the new fiscal year.

(11) The State agency will submit annually, on its final quarterly report:

(i) A list of E&T components it offered during the fiscal year and the number of ABAWDs and non-ABAWDs who participated in each;

(ii) The number of ABAWDs and non-ABAWDs who participated in the E&T Program during the fiscal year. Each individual must be counted only once;

(iii) Number of SNAP applicants and participants required to participate in E&T by the State agency and of those the number who begin participation in an E&T program and the number who begin participation in an E&T component. An E&T participant begins to participate in an E&T program when the participant commences at least one part of an E&T program including an orientation, assessment, case management, or a component. An E&T participant begins to participate in an E&T component when the participant commences the first activity in the E&T component; and

(iv) Number of mandatory E&T participants who were determined ineligible for failure to comply with E&T requirements.