

**TITLE 42 - THE PUBLIC HEALTH AND WELFARE  
CHAPTER 13 - SCHOOL LUNCH PROGRAMS****§ 1769c. Compliance and accountability****(a) Unified accountability system**

There shall be a unified system prescribed and administered by the Secretary for ensuring that local food service authorities that participate in the school lunch program under this chapter comply with the provisions of this chapter. Such system shall be established through the publication of regulations and the provision of an opportunity for public comment, consistent with the provisions of section 553 of title 5.

**(b) Functions of system****(1) In general**

Under the system described in subsection (a) of this section, each State educational agency shall—

(A) require that local food service authorities comply with the provisions of this chapter; and

(B) ensure such compliance through reasonable audits and supervisory assistance reviews.

**(2) Minimization of additional duties**

Each State educational agency shall coordinate the compliance and accountability activities described in paragraph (1) in a manner that minimizes the imposition of additional duties on local food service authorities.

**(3) Additional review requirement for selected local educational agencies****(A) Definition of selected local educational agencies**

In this paragraph, the term “selected local educational agency” means a local educational agency that has a demonstrated high level of, or a high risk for, administrative error, as determined by the Secretary.

**(B) Additional administrative review**

In addition to any review required by subsection (a) of this section or paragraph (1), each State educational agency shall conduct an administrative review of each selected local educational agency during the review cycle established under subsection (a) of this section.

**(C) Scope of review**

In carrying out a review under subparagraph (B), a State educational agency shall only review the administrative processes of a selected local educational agency, including application, certification, verification, meal counting, and meal claiming procedures.

**(D) Results of review**

If the State educational agency determines (on the basis of a review conducted under subparagraph (B)) that a selected local educational agency fails to meet performance criteria established by the Secretary, the State educational agency shall—

(i) require the selected local educational agency to develop and carry out an approved plan of corrective action;

(ii) except to the extent technical assistance is provided directly by the Secretary, provide technical assistance to assist the selected local educational agency in carrying out the corrective action plan; and

(iii) conduct a followup review of the selected local educational agency under standards established by the Secretary.

**(4) Retaining funds after administrative reviews****(A) In general**

Subject to subparagraphs (B) and (C), if the local educational agency fails to meet administrative performance criteria established by the Secretary in both an initial review and a followup review under paragraph (1) or (3) or subsection (a) of this section, the Secretary may require the State educational agency to retain funds that would otherwise be paid to the local educational agency for school meals programs under procedures prescribed by the Secretary.

**(B) Amount**

The amount of funds retained under subparagraph (A) shall equal the value of any overpayment made to the local educational agency or school food authority as a result of an erroneous claim during the time period described in subparagraph (C).

**(C) Time period**

The period for determining the value of any overpayment under subparagraph (B) shall be the period—

- (i) beginning on the date the erroneous claim was made; and
- (ii) ending on the earlier of the date the erroneous claim is corrected or—
  - (I) in the case of the first followup review conducted by the State educational agency of the local educational agency under this section after July 1, 2005, the date that is 60 days after the beginning of the period under clause (i); or
  - (II) in the case of any subsequent followup review conducted by the State educational agency of the local educational agency under this section, the date that is 90 days after the beginning of the period under clause (i).

**(5) Use of retained funds**

**(A) In general**

Subject to subparagraph (B), funds retained under paragraph (4) shall—

- (i) be returned to the Secretary, and may be used—
  - (I) to provide training and technical assistance related to administrative practices designed to improve program integrity and administrative accuracy in school meals programs to State educational agencies and, to the extent determined by the Secretary, to local educational agencies and school food authorities;
  - (II) to assist State educational agencies in reviewing the administrative practices of local educational agencies in carrying out school meals programs; and
  - (III) to carry out section 1769b-1 (f) of this title; or
- (ii) be credited to the child nutrition programs appropriation account.

**(B) State share**

A State educational agency may retain not more than 25 percent of an amount recovered under paragraph (4), to carry out school meals program integrity initiatives to assist local educational agencies and school food authorities that have repeatedly failed, as determined by the Secretary, to meet administrative performance criteria.

**(C) Requirement**

To be eligible to retain funds under subparagraph (B), a State educational agency shall—

- (i) submit to the Secretary a plan describing how the State educational agency will use the funds to improve school meals program integrity, including measures to give priority to local educational agencies from which funds were retained under paragraph (4);
- (ii) consider using individuals who administer exemplary local food service programs in the provision of training and technical assistance; and
- (iii) obtain the approval of the Secretary for the plan.

**(c) Role of Secretary**

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

In carrying out this section, the Secretary shall—

- (1) assist the State educational agency in the monitoring of programs conducted by local food service authorities; and
- (2) through management evaluations, review the compliance of the State educational agency and the local school food service authorities with regulations issued under this chapter.

**(d) Authorization of appropriations**

There is authorized to be appropriated for purposes of carrying out the compliance and accountability activities referred to in subsection (c) of this section \$6,000,000 for each of fiscal years 2004 through 2009.

(June 4, 1946, ch. 281, § 22, as added Pub. L. 101–147, title I, § 110(a), Nov. 10, 1989, 103 Stat. 889; amended Pub. L. 103–448, title I, § 121, Nov. 2, 1994, 108 Stat. 4727; Pub. L. 105–336, title I, § 111, Oct. 31, 1998, 112 Stat. 3157; Pub. L. 108–265, title I, §§ 126(b)(1), 127, June 30, 2004, 118 Stat. 763, 767.)

### Prior Provisions

A prior section 1769c, act June 4, 1946, ch. 281, § 22, as added Nov. 10, 1978, Pub. L. 95–627, § 9, 92 Stat. 3623, directed a study of menu choice, prior to repeal by Pub. L. 99–500, title III, § 371(b), Oct. 18, 1986, 100 Stat. 1783–368, and Pub. L. 99–591, title III, § 371(b), Oct. 30, 1986, 100 Stat. 3341–372; Pub. L. 99–661, div. D, title V, § 4501(b), Nov. 14, 1986, 100 Stat. 4080.

### Amendments

2004—Subsec. (b)(3) to (5). Pub. L. 108–265, § 126(b)(1), added pars. (3) to (5).

Subsec. (d). Pub. L. 108–265, § 127, substituted “\$6,000,000 for each of fiscal years 2004 through 2009” for “\$3,000,000 for each of the fiscal years 1994 through 2003”.

1998—Subsec. (d). Pub. L. 105–336 substituted “2003” for “1996”.

1994—Subsec. (d). Pub. L. 103–448 substituted “fiscal years 1994 through 1996” for “fiscal years 1990, 1991, 1992, 1993, and 1994”.

### Effective Date of 2004 Amendment

Amendment by section 126(b)(1) of Pub. L. 108–265 effective July 1, 2005, and amendment by section 127 of Pub. L. 108–265 effective June 30, 2004, see section 502(a), (b)(4) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

### Effective Date of 1998 Amendment

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

### Effective Date of 1994 Amendment

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

### Regulations

Section 110(b) of Pub. L. 101–147 provided that: “Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 22 of the [Richard B. Russell] National School Lunch Act [this section] (as added by subsection (a) of this section).”

### Interpretation

Pub. L. 108–265, title I, § 126(b)(2), June 30, 2004, 118 Stat. 765, provided that: “Nothing in the amendment made by paragraph (1) [amending this section] affects the requirements for fiscal actions as described in the regulations issued pursuant to section 22(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c (a)).”