



DEPARTMENT OF EDUCATION


Townsend Building
401 Federal Street Suite 2
Dover, Delaware 19901-3639
<http://education.delaware.gov>

Mark A. Holodick, Ed.D.
Secretary of Education
(302) 735-4000
(302) 739-4654 - fax

January 9, 2024

MEMORANDUM

TO: Directors of Residential Child Care Institutions
Other Appropriate Personnel

FROM: Aimee F. Beam, MS, RD 
Education Associate, Nutrition Programs

RE: **SY 2023-2024 Operational Memo #17**
State Agency Discretion for Repeat Meal Pattern Violations Fiscal Action

On December 1, 2023, the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) released the following document: SP 04-2024, Child Nutrition Program Integrity Final Rule: State Agency Discretion for Repeat Meal Pattern Violations Fiscal Action. This memorandum provides details regarding how the Child Nutrition Program Integrity final rule relates to meal pattern violations.

Beginning in School Year 2023-2024, State Agencies (SAs) now have discretion in determining whether to assess fiscal action against School Food Authorities (SFAs) when they find repeat violations of the milk type or vegetable subgroup requirements during an Administrative Review. Fiscal action will be determined on a case-by-case basis. With this change, the only required fiscal action for meal pattern violations is when there are missing food components or missing production records.

The memorandum is attached for your review. Please contact us if you have any questions at (302) 857-3356.

Attachments: SP 04-2024

cc: Nutrition Team



Food and Nutrition Service

DATE: December 1, 2023

MEMO CODE: SP 04-2024

Braddock Metro Center

SUBJECT: Child Nutrition Program Integrity Final Rule: State Agency Discretion for Repeat Meal Pattern Violations Fiscal Action

1320 Braddock Place Alexandria VA 22314

TO: Regional Directors
Child Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

| | |
|-------------------------------|---|
| Issuing Agency/Office: | FNS/Child Nutrition Programs |
| Title of Document: | Child Nutrition Program Integrity Final Rule: State Agency Discretion for Repeat Meal Pattern Violations Fiscal Action |
| Document ID: | |
| Z-RIN: | |
| Date of Issuance: | December 1, 2023 |
| Replaces: | N/A |
| Summary: | 1) The purpose of this memorandum is to remind State agencies of discretionary and required fiscal action for meal pattern violations, including the new provision of the Child Nutrition Program Integrity final rule. 2) This memorandum relates to program-specific changes in the National School Lunch Program and School Breakfast Program. 3) This memorandum applies to State agencies administering and school food authorities implementing the National School Lunch Program and School Breakfast Program. |

The final rule, [Child Nutrition Program Integrity](#), published on August 23, 2023, amended 7 CFR 210.18(l)(2) to provide State agencies discretion in determining whether to assess fiscal action against school food authorities (SFAs) when they find repeat violations of the milk type or vegetable subgroup requirements during an Administrative Review. With this change to the regulations, the only required fiscal action for meal pattern violations is when there are missing food components or missing production records. For all other meal pattern violations, State agencies can decide whether fiscal action is warranted based on the specific circumstances of the review. Please note that the provision was effective on September 24, 2023, so it is applicable to Administrative Reviews that State agencies are conducting in School Year 2023-2024.

Table 1. Summary of Fiscal Action for Meal Pattern Requirements

| State agencies have discretion to take fiscal action for the following repeat violations: | State agencies are required to take fiscal action for the following violations: |
|---|--|
| <ul style="list-style-type: none">• Food quantities• Whole grain-rich foods• Milk types• Vegetable subgroups• Dietary specifications (calories, saturated fat, and trans-fat) | <ul style="list-style-type: none">• Missing food components• Missing production records |

While the vast majority of SFAs strive to make a good faith effort to comply with meal pattern requirements, the Food and Nutrition Service (FNS) recognizes that some SFAs may need additional support to fully and correctly execute the meal pattern. Rather than requiring State agencies to fiscally penalize these SFAs, the change made through the final Child Nutrition Program Integrity Rule allows State agencies to consider each unique situation and determine whether noncompliance can be addressed with only technical assistance and corrective action. In other situations, after providing technical assistance and requiring corrective action and still finding noncompliance, fiscal action may be warranted. FNS encourages State agencies to communicate with their SFAs about situations that would warrant fiscal action, to ensure a uniform and fair approach.

State agencies are reminded to distribute this memorandum to Program operators immediately. Program operators should direct any questions concerning this guidance to their respective State agency. State agencies with questions should contact the appropriate FNS Regional Office.

Sincerely,

**JESSICA
SARACINO**

Digitally signed by
JESSICA SARACINO
Date: 2023.12.01
11:02:53 -05'00'

Jessica Saracino
Director
Program Monitoring and Operational Support Division
Child Nutrition Programs