



Office for Prekindergarten through Grade 12 Education  
Child Nutrition Program Administration  
89 Washington Avenue, Room 375 EBA, Albany, NY 12234  
(518) 473-8781 Fax (518) 473-0018  
[www.nysed.gov/cn/cnms.htm](http://www.nysed.gov/cn/cnms.htm)

To: Superintendents  
School Business Officials  
Executive Directors  
School Food Service Directors/Managers

From: Paula Tyner-Doyle, Coordinator

Date: May 13, 2014

Subject: Independent Review of Applications Required by the Healthy, Hunger Free Kids Act of 2010 Questions and Answers

Attached are Questions and Answers related to the final rule published in the Federal Register on February 6, 2014 titled, *Independent Review of Applications Required by the Healthy, Hunger-Free Kids Act of 2010*. Section 304 of the Healthy, Hunger-Free Kids Act of 2010 requires local educational agencies (LEAs) that demonstrate high levels of, or a high risk for administrative error associated with certification, verification and other administrative processes to conduct an independent review of the initial eligibility determinations for free and reduced price school meal applications for accuracy prior to notifying households of eligibility. The final rule establishes the requirements related to this second review of applications process, which becomes effective in School Year (SY) 2014-2015. The attached Questions and Answers provide additional information on these requirements.

We will be notifying SFAs who have demonstrated high levels of administrative error as a result of findings on the 2013-14 Administrative Review or error results from FNS-742 Verification Summary Reporting that they will be required to conduct this independent review of applications and the timeline for reporting the results to the NYS Education Department, Child Nutrition Program Administration.

If you have any questions regarding the independent review of applications, please contact your Child Nutrition Program representative at (518) 473-8781.

## **General**

### **Q1. What is the independent review of applications?**

The Healthy, Hunger-Free Kids Act (HHFKA) included several provisions to help increase effectiveness and integrity in Child Nutrition Programs. As part of an effort to decrease certification error during the eligibility determination process, section 304 of the HHFKA requires that certain local education agencies (LEAs) conduct a second, independent review of applications for free and reduced price meal benefits before eligibility determinations are made.

### **Q2. Which LEAs are required to conduct a second review of applications?**

Beginning in SY 2014-2015, LEAs that demonstrate high levels of, or a high risk for administrative error associated with certification and benefit issuance are required to conduct a second review of applications. Refer to the “LEA Selection Criteria” section below for approaches to determine ‘high risk’ LEAs.

### **Q3. What does a second review of applications look like?**

A second review of applications requires a re-evaluation of the eligibility determination made by the original determining official, based on the information provided by the household on the application. The second review must determine whether the application is complete, i.e., the application contains the signature of an adult household member, the last four digits of a social security number (or an indication of “none”), names of all household members including the student for whom application is made, income amount (received by each household member identified by the individual who receives it), income source, income frequency or categorical information, if applicable. The second review must also confirm the applications were correctly approved based on current income eligibility guidelines or categorical eligibility information, as applicable, and the master list or roster of student names correctly records the student’s eligibility.

### **Q4. Who must conduct the second review of applications?**

The second review must be conducted by an independent individual or entity that did not make the original eligibility determination. This individual or entity is not required to be an employee of the LEA but must be trained on how to make application determinations.

Individuals or entities who conduct a second review of applications are subject to the disclosure requirements set forth in 7 CFR 245.6, as are all individuals who review initial eligibility applications,

### **Q5. How quickly must a selected LEA conduct the second review of applications?**

The second review of applications must be done before the household is notified of eligibility and must not result in the delay of an eligibility determination.

LEAs required to conduct a second review of applications are still required to notify households of the child’s eligibility determination within 10 operating days of receiving the application.

**Q6. For how long must a selected LEA conduct a second review of applications?**

Selected LEAs must conduct a second review of applications annually until the State agency determines that LEA-provided documentation or data obtained during an administrative review demonstrates that no more than 5 percent of reviewed applications required a change in eligibility determinations.

LEA-provided documentation includes the LEA required annual report which is described in the “Reporting” section below.

**Q7. Are LEAs that use an electronic certification system exempt from this requirement?**

LEAs with electronic systems are not exempt from this requirement.

**Q8. What happens if an LEA with an electronic system is selected to conduct a second review of applications?**

Electronic systems should produce accurate results and therefore, LEAs using them are less likely to be selected to conduct a second review of applications.

In the rare situation where an LEA with an electronic system is selected for a second review, certification errors are most likely the result of either data entry errors or systemic problems e.g., software glitch or use of incorrect Income Eligibility Guidelines (IEGs). The second review must ensure that the data entry problems or systemic problems have been corrected. For example, if an administrative review found that an LEA employee incorrectly programmed IEGs into their electronic system, the LEA should have taken corrective action subsequent to the administrative review. The following SY, the original determining official should establish that the correct IEGs are used prior to making eligibility determinations. Prior to conducting the second review, the reviewer must reaffirm that the correct IEGs are used. In this instance, the problem is systemic and once the problem is fixed all applications should be correctly approved or denied. For this reason, the individual conducting the second review should conduct a second review of 10 percent of applications to reaffirm the system is working properly.

In situations where certification errors in selected LEAs are caused by incorrect data entry, the second review should review the data entry for all applications to ensure the information was correctly entered into the electronic system.

**LEA Selection Criteria**

**Q9. What criteria should State agencies use when selecting LEAs that must conduct a second review of applications?**

There are two criteria for the selection of LEAs demonstrating a high level of, or at risk for, certification errors:

1. All LEAs with 10 percent or more of certification/benefit issuances in error, as determined by the State agency during an administrative review; and

2. LEAs that the State agency considers at risk for certification error but not selected under Criterion 1; this criterion will be determined by the State agency.

**Q10. How do State agencies determine if an LEA has a 10 percent certification/benefit issuance error rate during an administrative review?**

State agencies must use information captured on the SFA-2 form from the administrative review to identify LEAs at high risk of certification/benefit issuance errors.

To determine if an LEA has a 10 percent certification/benefit issuance error rate, the State will divide the number of certification/benefit issuance errors from the SFA-2 form by the total number of certification/benefits reviewed by the State.

The SFA-2 form provides proxy data to assist in identifying LEAs at risk for certification/benefit issuance problems. FNS recognizes that this data has limitations; it includes direct certification errors and does not include denied applications. However, it provides a snap shot of the potential for an LEA's risk for certification/benefit issuance errors.

**Q11. What if there are no LEAs in my State that hit this 10 percent threshold for Criteria 1?**

If no LEAs meet this 10 percent threshold for selection, no LEAs would be selected under Criterion 1 to conduct a second review of applications. State agencies must still evaluate LEAs under Criterion 2.

**Q12. Which LEAs should State agencies consider to include under Criterion 2?**

State agencies are strongly encouraged to include those LEAs between 5-10 percent of the certification/benefit issuances in error, as determined by the State agency under an administrative review. State agencies should also consider selecting LEAs that: 1) are new to the National School Lunch and Breakfast Programs; 2) have recently hired new administrative staff; and 3) implemented a new electronic system.

While FNS encourages States to use these criteria for selecting LEAs, State agencies have discretion to select any LEA they believe to be at risk for certification/benefit issuance error.

**Q13. Are State agencies required to select a certain number of LEAs under Criteria 2?**

There is no required number of LEAs to select under Criteria 2, but States must select all LEAs that they determine to be at risk for certification/benefit issuance error.

**Q14. Can a State agency not select any LEAs to conduct a second review of applications?**

FNS expects every State will have some LEAs that either demonstrate high levels of, or are at risk for administrative error. These LEAs should be identified by the State agency and selected to conduct a second review of applications.

## Reporting

### **Q15. Are there any reporting requirements for State agencies?**

State agencies are required to annually submit a report to FNS detailing the number of free and reduced price applications subject to a second review, the number and percentage of reviewed applications for which the eligibility determination was changed and a summary of the type of changes that were made for all the LEAs subject to a second review of applications.

This information must be reported by March 15<sup>th</sup> on the FNS-742A, "LEA Second Review of Applications Report", and must include LEA-level data as of October 31<sup>st</sup>. This means State agencies must provide this information for each LEA required to conduct the second review of applications.

The first time State agencies will be required to report is March 15, 2015. More information on State reporting procedures will be issued soon.

### **Q16. Are there any reporting requirements for LEAs?**

LEAs subject to the second review of applications are required to submit to their State agency an annual report, detailing the number of free and reduced price applications subject to a second review, the number and percentage of reviewed applications for which the eligibility determination was changed and a summary of the type of changes that were made.

The information reported to the State agency must be as of October 31<sup>st</sup>. This means LEAs will only need to report on applications for the current school year that have been reviewed on or before October 31<sup>st</sup>, a date consistent with already existing reporting requirements.

State agencies have discretion in establishing LEA reporting format and timeframe for report submission. LEAs should contact their State agencies to determine how this information is to be reported and the deadline.

### **Q17. How is the LEA report used to determine whether an LEA has to conduct a second review of applications the following school year?**

Selected LEAs must conduct a second review of applications until their report (or documentation from an administrative review) demonstrates that no more than 5 percent of reviewed applications required a change in eligibility determinations.

## ***Important Dates***

### **Q18. What are the important dates associated with this requirement?**

#### **Important Dates Table**

<b>Independent Review - Important Dates</b>		
<b>Requirement</b>	<b>Who?</b>	<b>Date</b>
Identify and notify LEAs subject to a second review	SA to LEAs	by June 30
Identified LEAs conduct reviews of applications	LEA	beginning July 1, 2014
Affected LEAs submit annual report on results of second review	LEA to SA	Date determined by SA
SA submit annual report of LEA-level second review data	SA to FNS	by March 15

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request a form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

Individuals who are deaf, hard of hearing or have speech disabilities, may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

USDA is an equal opportunity provider and employer.