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FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2429

Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, an interim final rule published in the **Federal Register** on July 10, 2023, with a correction published on July 12, 2023. The rule permits parties to proceedings before the Federal Labor Relations Authority's (FLRA's) three-Member, decisional component (the Authority) to voluntarily request—in individual cases filed through the FLRA's electronic-filing (eFiling) system—that the Authority use electronic mail (email) to serve the requesting parties any decisions, orders, and notices (Authority documents) issued in those individual cases.

DATES: This final rule is effective on September 26, 2023.

FOR FURTHER INFORMATION CONTACT: Erica Balkum, Chief, Office of Case Intake and Publication at *ebalkum@flra.gov* or at: (771) 444–5805.

SUPPLEMENTARY INFORMATION: On July 10, 2023, the FLRA published an interim final rule in the **Federal Register** at 88 FR 43425, amending its regulations to permit parties to proceedings before the Authority to voluntarily request—in individual cases filed through the FLRA's eFiling system—that the Authority use email to serve the requesting parties any Authority documents issued in those individual cases. The **Federal Register** notice: stated that it had an effective date of July 11, 2023; solicited written comments; and requested that any such comments be submitted by August 10, 2023.

Then, on July 12, 2023, the **Federal Register** issued a correction in 88 FR 44191, changing (1) the interim final rule's effective date to July 10, 2023, and (2) the due date for comments to August 9, 2023.

The FLRA has received only two comments on the interim final rule, both of which were submitted after the corrected, August 9, 2023 due date for comments. The FLRA has nonetheless opted to consider both comments. *Cf. Reytblatt* v. *NRC,* 105 F.3d 715, 723 (D.C. Cir. 1997) (stating that ''[a]gencies are *free* to ignore . . . late filings,'' but not holding that agencies are required to do so) (emphasis added) (quoting *Personal Watercraft Indus. Ass'n* v. *Dep't of Com.,* 48 F.3d 540, 543 (D.C. Cir. 1995)).

One commenter, a federal agency, fully supported the rule but suggested a specific technical change in the FLRA's eFiling system outside the scope of the rule. The other commenter, the owner and chief executive officer of a government-contracting company, did not directly address the rule but generally discussed document-based business processes.

Neither comment warrants changing the rule. Therefore, based on the rationale set forth in the interim final rule and this document, the FLRA is adopting the provision of the interim final rule as a final rule with no changes. The FLRA appreciates the comments submitted in response to the interim final rule, and will take under advisement the recommended change to the eFiling system.

Administrative Procedure Act

On July 10, 2023, the FLRA published an interim final rule (88 FR 43425) and determined that there was a basis under the Administrative Procedure Act for issuing the interim final rule with immediate effect. On July 12, 2023, the **Federal Register** issued a correction (88 FR 44191). The FLRA has considered all relevant input and information contained in the comments submitted in response to the interim final rule and has concluded that no changes to the interim final rule are warranted. The FLRA is adopting the provisions of the interim final rule as a final rule with no changes.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the FLRA has determined that this final rule will not have a significant impact on a substantial number of small entities, because this final rule applies only to Federal agencies, Federal employees, and labor organizations representing those employees.

Executive Order 12866, Regulatory Review

The FLRA is an independent regulatory agency and thus is not subject to the requirements of E.O. 12866 (58 FR 51735, Sept. 30, 1993).

Executive Order 13132, Federalism

The FLRA is an independent regulatory agency and thus is not subject to the requirements of E.O. 13132 (64 FR 43255, Aug. 4, 1999).

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulations contain no additional information collection or record-keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in 5 CFR Part 2429

Administrative practice and procedure, Government employees, Labor management relations.

■ Accordingly, the interim final rule published in the **Federal Register** on July 10, 2023, at 88 FR 43425—and corrected on July 12, 2023, at 88 FR 44191—is adopted as a final rule without change.

Approved: September 21, 2023.

Rebecca J. Osborne,

Federal Register Liaison, Federal Labor Relations Authority.

[FR Doc. 2023–20892 Filed 9–25–23; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

[FNS–2022–0044]

RIN 0584–AE93

Child Nutrition Programs: Community Eligibility Provision—Increasing Options for Schools

AGENCY: Food and Nutrition Service (FNS), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This final rule amends the Community Eligibility Provision (CEP) regulations by lowering the minimum identified student percentage (ISP) from 40 percent to 25 percent. Lowering the minimum ISP will give States and schools greater flexibility to offer meals to all enrolled students at no cost when financially viable. As a result of this rule, more schools are eligible to participate in CEP and experience the associated benefits, such as increasing students' access to healthy, no-cost school meals; eliminating unpaid meal charges; reducing stigma; and streamlining Program administration and meal service operations.

DATES: This rule is effective October 26, 2023.

FOR FURTHER INFORMATION CONTACT: Michelle Frey, Branch Chief, Policy Design Branch, School Meals Policy Division—4th Floor, Food and Nutrition Service, 1320 Braddock Place, Alexandria, VA 22314, telephone: 703–305–2590.

SUPPLEMENTARY INFORMATION:

I. Background

The Community Eligibility Provision (CEP) is an option for eligible schools to offer meals at no cost to all enrolled students without collecting household applications. Authorized by the Healthy, Hunger-Free Kids Act of 2010 (HHFKA) and codified in regulations at 7 CFR 245.9(f), CEP is a reimbursement alternative for eligible local educational agencies (LEAs) and schools participating in both the National School Lunch Program (NSLP) and School Breakfast Program (SBP).[1] CEP eliminates the need for schools to collect household income applications by sharing eligibility data between specific Federal assistance programs, which can reduce administrative burden for both schools and families.

To be eligible for CEP, an individual school, group of schools, or LEA must meet or exceed the established, minimum identified student percentage (ISP) in the school year prior to implementing CEP. The ISP is the percentage of enrolled students who are certified for free school meals without submitting a household application, such as those directly certified through specific Federal benefits programs (*e.g.,* the Supplemental Nutrition Assistance Program (SNAP) and the Food Distribution Program on Indian Reservations (FDPIR)). For CEP, students who are certified for free meals without a household application are ''identified students'' (42 U.S.C. 1759a(a)(1)(F)(i); 7 CFR 245.9(f)(1)(ii)) [2] The ISP is calculated by dividing the total number of identified students by the total number of enrolled students:

$$\text{Identified Student Percentage} = \frac{\text{\# Identified Students}}{\text{\# Enrolled Students}}$$

Under current regulations, the minimum ISP is 40 percent; therefore, to be eligible for CEP, an individual school, group of schools, or LEA must have an ISP greater than, or equal to, 40 percent (ISP ≥40 percent) as of April 1 of the school year prior to implementing CEP (7 CFR 245.9(f)(3)(i)).

The ISP determines eligibility to participate in CEP and is also the basis of Federal reimbursements for meals served to students in CEP schools. The National School Lunch Act (NSLA) gives the Secretary discretion to establish a CEP ''multiplier'' between 1.3 and 1.6 that is used to determine the percentage of meals that CEP schools claim at the free and paid reimbursement rate levels (42 U.S.C. 1759a(a)(1)(F)(vii)(II)(aa)). To promote CEP financial viability, USDA codified a multiplier of 1.6 (7 CFR 245.9(f)(4)(vi)). The ISP is multiplied by 1.6 to calculate the percentage of meals reimbursed at the Federal free rate. Any remaining meals, up to 100 percent, are reimbursed at the Federal paid rate.[3]

% Meals reimbursed at Federal free rate = ISP × 1.6

% Meals reimbursed at Federal paid rate = 100 − % meals reimbursed at Federal free rate

CEP requires that LEAs must pay, with non-Federal funds, any costs of offering free meals to all students that exceed the Federal assistance provided. If all operating costs are covered by the Federal assistance provided, then LEAs are not required to contribute non-Federal funds (7 CFR 245.9(f)(4)(vii)).

On March 23, 2023, USDA published a proposed rule in the **Federal Register** (88 FR 17406), seeking to lower the minimum ISP to 25 percent, and make related, conforming changes to CEP regulatory text at 7 CFR 245.9(f).

[1] On July 29, 2016, the U.S. Department of Agriculture (USDA) published the final rule, National School Lunch Program and School Breakfast Program: Eliminating Applications through Community Eligibility as Required by the Healthy, Hunger-Free Kids Act of 2010 [81 FR 50194, July 29, 2016], which codified CEP requirements that were implemented through statute and policy guidance, at § 245.9(f).

[2] Identified students include students living in households participating in SNAP, Temporary Assistance for Needy Families, and FDPIR. Identified students also include those who are homeless, migrant, runaway, in foster care, or enrolled in Head Start. In some States, students are directly certified through Medicaid direct certification demonstration projects. Students in States participating in the Medicaid direct certification demonstration projects are only included in the ISP if they are certified for free meals (not reduced price meals).

[3] CEP schools only claim meals at the free and paid reimbursement rates. CEP schools do not claim reduced price meals.