Proposed Reform to the Healthy, Hunger-Free Kids Act of 2010: Secondary Application Reviews for the National School Lunch Program

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Abstract

A proposed change to the Healthy, Hunger-Free Kids Act of 2010 introduces new application review protocols for the National School Lunch Program (NSLP). These protocols intend to strengthen the integrity of the program, but there are significant implications for its administration. The new review process will affect the program’s credibility, the organizational culture of the various institutions that oversee its administration, and the craft of their employees. These trade-offs are ultimately necessary for overall NSLP viability, especially in the most vulnerable communities and schools nation-wide.

Introduction

The National School Lunch Program (NSLP) is administered through the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture (USDA), in partnership with state educational departments and 100,000 local educational agencies—public school districts and
charter school organizations that provide school lunch programs (USDA, August 2012). The new rule, introduced on the Federal Register in September 2012, proposed an independent secondary review process for a select group of local educational agencies (LEAs). The secondary review process and criteria for selecting LEAs subject to the process are outlined in the rule: a second review must be conducted by LEAs with high incidences of errors (impacting 20-25% of LEAs, according to FNS) and by those new to NSLP Provision 2 or 3 status, reducing oversight and paperwork for LEAs and state agencies\(^1\). Additionally, LEAs determined by state agencies to be at risk for meeting these criteria would also be required to undergo secondary reviews.

The reform has been designed to respond to reports of errors in the administration of NSLP. FNS conducts annual reviews of school meal programs through the Regional Office Review of Applications (RORA). (The School Breakfast Program is an additional program that is not subject to the proposed NSLP reform.) The July 2011 RORA report estimates a 2.3% error rate in lunch application processing in 2010, nearly two-thirds of which resulted in higher benefits than necessary (i.e., free as opposed to reduced-price lunches). The remaining third were approved for fewer benefits, and in some cases no benefits at all (RORA, July 2011).

The RORA report shows significant improvement over another study cited in the proposed rule, FNS 2007 NSLP/SBP Access, Participation, Eligibility, and Certification Study (APEC, November 2007). This study estimates 20% of applications result in faulty certification or denial of certification. This includes applications with household errors (e.g., lack of parent signature) and administrative errors. The proposed rule cites a 4.2% error rate from APEC, but when considering both error types there was a 9.4% incidence of erroneous NSLP payments in the 2005-2006 school year, totaling $759 million in faulty disbursements (APEC, November 2007). The reform may not substantially reduce NSLP payments, as errors led to students
receiving free lunches as opposed to reduced-price lunches and vice versa, but it will ensure more accurate data and budgeting for the program, ultimately impacting other federal programs.

**Impact of Proposed Rule on Credibility of Administrative Actors**

When the Healthy, Hunger-Free Kids Act of 2010 (HHFKA) was approved, the responsibility of processing NSLP applications was delegated to LEAs nationwide. These educational institutions were engaged to work with FNS to reduce the burden on the federal agency. The errors uncovered and cited in the APEC study and RORA report have unearthed a problem with this delegation. In correcting problems associated with NSLP application processing, the proposed rule will also correct existing delegation and credibility issues, ultimately strengthening overall NSLP integrity.

For the context of this discussion, it must be noted that each LEA determines how its lunch program is administered internally. Larger school districts, such as Los Angeles Unified School District, have entire departments dedicated to school nutrition programs, whereas smaller districts, such as Mammoth Unified School District in Mono County, California, have a single staff person overseeing nutrition programs. Regardless of resources, given their knowledge of and access to their communities, LEAs have the most inherent credibility for administering and managing the application process. This connection is critical for understanding why the proposed reform does not remove the LEA role, but rather redefines it. LEAs can, for example, contact families with incomplete applications, communal language barriers, or limited access to technology, facilitating the application process.

However, the proposed rule demonstrates that despite this inherent credibility, trust in LEA expertise has been compromised. NSLP credibility has been challenged by local processing
errors, which in turn challenge USDA and FNS credibility. To correct this explicit delegation problem the reform applies administrative restrictions for all LEAs with high rates of application processing errors. The rule reduces the current moral hazard in the delegation relationship, and will restore credibility to the LEAs, the USDA and FNS, and state education departments, while maintaining the primary principal-agent relationship and aspects of the delegation arrangement.

The mere existence of the reform may, at first glance, appear to constrain the autonomy and discretion of the LEAs, thereby negatively altering the principal-agent relationship. With further consideration, though, it is apparent that while the USDA will determine the guidelines for those LEAs subject to the new review process, the LEA will still be responsible for administering that process. The rule will positively impact LEAs in their capacity as administrators of the NSLP for their communities by increasing their credibility with families who see their children given better access to nutritious lunches. Additionally, reducing errors gives stronger credence to the NSLP nationwide, as it will demonstrate that such a program can efficiently achieve goals related to child nutrition and welfare.

The rule will also strengthen the credibility of state educational departments serving as administrative intermediaries. FNS relies on state departments to help oversee LEAs in their administration of the application process. States administer federal NSLP funds, and thus state departments rely on LEAs to provide an accurate count of school lunches needed in order to properly disburse those funds. Enactment of the proposed rule would increase the credibility of state departments, especially as they would be more directly involved in program management with LEAs deemed most responsible for the errors. In this scenario, assuming successful implementation, discretion and credibility are inversely related: though LEA discretion decreases, credibility for all agencies in their administration of the NSLP increases.
Impact of Proposed Rule on Administrative Culture

Given the additional oversight between various principals and agents in the HHFKA administration, this reform will alter the organizational culture of LEAs and state agencies. While the new criteria will ultimately increase efficiency of all actors, it also increases the amount of policing by all parties. The cultures of state oversight agencies will shift as their responsibility for managing LEAs increases, perhaps most notably by their discretion to define levels of risk for LEAs and their requirement to submit annual reports to FNS on outcomes of the new review process. Likewise, as LEAs are more closely monitored, a culture of autonomy (or, more importantly, perceived autonomy) will be challenged, since the increased oversight stems from a lack of trust in LEAs to administer the NSLP without meaningful errors. Looking further into the future, reduction in errors nationwide may also reduce the degree of policing of LEAs. Movement toward moderate police-patrol oversight benefits LEAs, as it reduces the likelihood of “fire-alarm incidents” as defined by McCubbins and Schwartz (1984), wherein an organized group of concerned parents or community leaders could challenge LEA or NSLP integrity.

An agency whose culture must shift toward being policed also shifts its frame of reference for its purpose. Independence breeds responsiveness, whereas policing breeds compliance. For example, the proposed rule allows state agencies to “nominate” LEAs for the secondary review process even if the LEA does not meet the stated criteria. The goal of this is to avoid crises and expand police-patrol monitoring to those LEAs facing administrative review the following year, or those believed to be approaching a particular level of risk for errors. The definition of risk is not explicitly defined, but could include LEAs with new staff, less
experience with lunch program administration, or trends toward increased errors. As this is not immediately clear, LEAs may function with constant anxiety over the prospect of being subject to new, unclear criteria. While this may motivate more careful NSLP administration in order to avoid the secondary review process, it compromises organizational confidence, autonomy, and adaptive systems. Informal methods by which LEAs are empowered to respond to unique community needs will be challenged. Agencies may need to develop new structures to respond to the compliance demands of state departments or the USDA that are divergent from the interests of the LEA and its community, and as they become more focused on compliance and less on responsiveness the purpose of the agencies in their communities will change.

**Impact of Proposed Rule on Craft of Management**

This administrative reform will require changes to the craft of public managers. The jobs of local and state managers will need to shift as the expectations for agency functions change. It could be argued that the long-term effects of the reform may increase LEA ability to focus more on educational policy than administrative oversight of NSLP. Perhaps the initial structure was flawed and the rule only forces LEAs nationwide to implement a structure that should have previously existed to support NSLP and other programs.

The text of the proposed rule estimates burden for various actors: an estimated 56 state agencies\(^2\) and 1,400 LEAs must report results of secondary application reviews annually, resulting in an estimated 378 hours spent maintaining compliance, 350 of those affecting LEAs (Independent Review of Applications Required by the Healthy, Hunger-Free Kids Act of 2010, 2012). In drafting the proposed rule, the FNS requested legally mandated input from various actors. Though LEAs and state agencies did express concern about these burdens\(^3\) (these
concerns were seconded by public comments to the proposed rule on the Federal Register), FNS believes the reform improves NSLP while reducing burden to the extent possible—and the estimated number of additional hours necessary to maintain compliance would seem to support this. The text of the proposed rule claims potential issues “will be outweighed by the benefits of decreased administrative error associated with certification” (Independent Review of Applications Required by the Healthy, Hunger-Free Kids Act of 2010, 2012). While this may prove true, the benefits will not be achieved without redefining agency craft.

The burdens associated with implementing the reform could incentivize LEAs to swiftly change their structures and managerial expertise, either to reduce the chance of being subject to secondary review or to increase their ability to manage that process if it cannot be avoided (such as for Provision 2 and 3 schools). The reform therefore follows a classic model of principal-agent relationships, which insist “that the principal’s problem is to align the preferences of agent with principal by the appropriate incentive system” (Miller, 2000). In this case, both principal and agent want to diminish error rates, thereby reducing the need for the secondary review process. Aside from obvious humanitarian reasons, the principal desires this so it will have more accurate NSLP data, and the agent desires this so it can avoid the restrictions of the reform.

LEAs may not be able to immediately set up new structures that allow for more compliance. If LEAs will need more administrative expertise to implement the review system, in addition to expertise on educational curricula and policies, then LEAs must have malleable structures with more generalists than specialists. They may consider hiring consultants to conduct secondary reviews, but this may further complicate the already complex delegation relationships in NSLP administration. Additionally, the reform stipulates that different staff must oversee the secondary review process than those who oversaw initial reviews. Affected LEAs
must either employ additional staff or divert staff attention from other projects to conduct the
reviews. For LAUSD, this re-defining of staff roles may not affect the entire agency since there
is an existing department for nutrition programs. For Mammoth Unified School District, on the
other hand, this could result in a substantial impact on the general management of its schools.

New demands on LEAs in terms of craft will undoubtedly affect LEA structures and
purpose. This raises the question: how much does the success of LEAs rely on educational
expertise among staff and management, rather than on efficient management with ability and
interest in running what is essentially a constant internal audit? Administrative reforms should
support a balance of craft in educational agencies so that both intellectual and health
development is achieved for children. This will be an especially difficult balance for smaller
LEAs with high poverty rates, such as Provision 2 and 3 LEAs. Yet again, these are necessary
costs, and changes to craft and structure will be necessary burdens in order to achieve higher
accuracy in NSLP enrollment, thereby ensuring access for hungry children and building more
reliable information about poverty in communities nationwide.

Conclusion

As demonstrated above, the improved accuracy of the application system for NSLP is
essential for the program’s overall success and perceived credibility. There will be structural
adjustments and cultural shifts for LEAs in the initial stages of implementing the new HHFKA
reform. These necessary burdens will reduce moral hazard in agency relationships, improving the
ability of LEAs to act as as critically important NSLP administrators in the long run. Successful
implementation of this reform can impact future policies in which LEAs would be actors. LEAs
would benefit from responsibility and discretion to enact additional programs, as this
demonstrates ongoing trust in LEAs to create positive community change.

For example, as more states consider implementing weighted funding for school districts,
it will become increasingly necessary for LEAs to produce and maintain accurate records of
community economic demographics.4 Enrollment figures for free and reduced school lunch
programs are the most reliable and accessible sets of data for the number of students from low-
income households. (Students are eligible for free lunches if their families have incomes at 130%
or less than the poverty level; reduced lunch eligibility is 130% to 185% of the poverty level
[USDA, August 2012].) Other federal programs measure income, such as Medicaid and
Temporary Assistance for Needy Families (TANF), but entirely new administrative processes
would need to be created to share that data with state education departments. (The Supplemental
Nutrition Assistance Program [SNAP] could be used as a metric but there are challenges to this,
discussed below). The proposed rule attempts to lower error rates and the need for further
HHFKA and NSLP reforms, and therefore may support future weighted funding systems that
will provide additional benefits for students and reduce funding restrictions for LEAs.

Additionally, other aspects of NSLP administration will be affected. Currently, many
NSLP applications are a sheet of paper sent home with a student, but the student may not
remember to give the application to a parent, and depending on the work situation of the parents
or parent, the child may not interact with a parent when returning home from school. School
districts are now required to directly enroll children currently enrolled in SNAP in lunch
programs, but 20% of children in need are still being missed by this direct certification process
(Frentz & Neuberger, September 2012). There are current proposals to improve automatic
certification for students to enroll in NSLP by enhancing the management and accuracy of SNAP
data and to expand direct certification to children enrolled in Medicaid and TANF (Frentz & Neuberger, September 2012). Proposals to remove restrictions on automatic certification would reduce the need for the second application review process, thereby reducing burdens to agencies. As credibility for LEAs, state agencies, and the FNS hopefully improves through successful implementation of the proposed rule, the likelihood that NSLP will be granted the latitude to implement a restructured direct certification process may increase, allowing for the cultural and craft issues discussed earlier to be minimized.

The conclusions presented here deserve greater consideration and should be tested if the proposed reform does indeed become an official policy of HHFKA. Long-term analysis will be necessary to truly conclude that the adjustments to discretion, craft, and culture mandated by the reform will in fact improve credibility across agencies and programs involved. In this ongoing analysis, particular attention should be given to LEAs with Provision 2 and 3 NSLP status, which, as referenced earlier, are 1.75 times more likely to have erroneous NSLP payments (APEC, November 2007). These LEAs would have more administrative requirements under the reform, but as they are generally located in low-income communities with the greatest need for school nutrition programs, they may have the smallest pool of communal and financial resources available for NSLP oversight and administration. It seems likely that with the proposed reform, the necessary shifts in craft and structure at these particular LEAs may have greater impact than this discussion of a more general population would suggest. This makes an even stronger case for increasing direct NSLP certification opportunities for households enrolled in SNAP—presumably low-income communities with Provision 2 and 3 LEAs would also have greater need for SNAP. Administration of and future reform to HHFKA must take into account how credibility, culture and craft are impacted in complementary programs, not only in NSLP
administration and oversight. As healthcare, nutrition, social services and entitlement programs continue to respond to changing demographics, need, technologies, and economic realities, integrated reforms are essential for program successes and the greater social good. The agencies that administer these programs must be armed with adaptable structures and appropriate expertise to simultaneously respond to administrative demands and community needs.
References


The National School Lunch Program includes three alternative provisional statuses for local educational agencies that are meant to reduce administrative burdens to schools with high NSLP application and participation rates. Provision 2 schools determine NSLP eligibility every four years and provide free lunches to all participating children during that time. Reimbursement is based on a daily meal count. Provision 3 schools receive federal funds for a lunch program, an amount that changes each year depending on enrollment and inflation. These provisions often apply to and help those schools with high populations of low-income students (USDA, February 2012). New Provision 2 and 3 schools are 1.75 times more likely to have erroneous payments (APEC, November 2007).

Many states have multiple agencies in charge of nutrition programs depending on size and demand for each program. There are 72 agencies responsible for all child nutrition programs, 68 of which are responsible for NSLP as of February 20, 2013 (USDA, 2012). This includes U.S. territories as well. The figure of 56 agencies cited on the Federal Register in September 2012 was based on research for crafting the proposed rule.

Federal Agencies are required to consider the effects of new regulations on other actors in accordance with Executive Order 13132 (as stated in the public text of the proposed reform). In the draft of the reform it is stated that FNS received input from local and state-level stakeholders regarding potential burdens on these actors.

Weighted funding formulas often include metrics for low-income and at-risk students.