SCNP Memo #2023-2024-86

Attachment A



# **Regulatory Requirements and Guidance on Indirect Costs**

Program regulations at 7 CFR 210.14 and 220.13(i) require that any cost paid from the nonprofit school food service account (NSFSA) meet the standards for allowable costs set forth in 2 CFR Part 200, the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, specifically with Subpart E – Cost Principles. As the financial steward of the NSFSA, the school food authority (SFA) is ultimately responsible for reviewing indirect costs recovered and ensuring they are allowable and adhere to these requirements. On September 30, 2016, the U.S Department of Agriculture (USDA) issued [SP 60-2-16Indirect Cost Guidance for State Agencies and School Food Authorities](https://www.fns.usda.gov/cn/indirect-cost-guidance), this guidance provides an extensive explanation of direct and indirect costs, the federal cost principles, methods used to adjust indirect costs previously over‐claimed or under‐claimed, and considerations when assessing indirect costs charged to the NSFSA.

### **Annual Indirect Cost Rates for Local Education Agencies Only**

The U.S. Department of Education (USED) has delegated authority to establish LEA indirect cost rates to the Virginia Department of Education (VDOE) and accepted its procedures for calculating unrestricted and restricted indirect cost rates as being consistent with federal regulations. As part of its approved agreement and methodology with USED, the VDOE calculates indirect cost rates based on expenditure data for the year ending the preceding June 30, reported by LEAs on their respective Annual School Report (ASR) required under §22.1-81 of the Code of Virginia. Instructions and guidance on completing the ASR are issued annually to school divisions. SFAs may consult their LEA finance official for additional information on this process.

Indirect cost rate certifications are issued by the VDOE to LEAs for a specific state fiscal year and rates are valid from July 1–June 30 of the applicable fiscal year of approval. LEA rates are published annually on the [VDOE website](https://www.doe.virginia.gov/data-policy-funding/school-finance/budget-grants-management).

Unrestricted rates are applied to federal awards not subject to the “supplement, not supplant” requirement. The USDA allows indirect cost recovery from the NSFSA using the LEA unrestricted rate. The LEA may apply but not exceed this VDOE-approved unrestricted rate. At its discretion, the LEA may apply a lower indirect cost rate percentage or choose to not recover indirect costs from school food service expenditures. The determination to charge indirect costs and the percentage rate applied must be consistent, based on a sound rationale and fully documented. The rate applied should not fluctuate during the state fiscal year nor be adjusted to address a general fund deficit or capture an excess balance of funds in the NSFSA.

### **Indirect Cost Rates for Private Schools, Residential Childcare Institutions and Community Sponsors**

The VDOE does not establish indirect cost rates for private schools, residential childcare institutions and community sponsors, including but not limited to non-profit organizations and other entities, participating in school nutrition programs. Under certain circumstances outlined in 2 CFR Part 200- Appendix IV, organizations may establish a rate through negotiation with the federal government documented in a signed Negotiated Indirect Cost Rate Agreement (NICRA) with a federal cognizant agency. Organizations without a NICRA may apply a *de minimis* rate of up to 15 percent of modified total direct costs (MTDC) consistent with 2 CFR Part 200.414. As with local education agencies, an organization may elect to not recover indirect costs from school food service expenditures, however when indirect costs are taken the costs must be consistently charged as either direct or indirect costs and may not be double charged or inconsistently charged.

### **Application of the Indirect Cost Rate to School Food Authorities (SFAs) Expenditures**

### **Direct Cost Base and Excluded Costs**

Indirect costs are recovered only to the extent of direct costs incurred and may be applied to expenditures only to the extent that they are allowable as defined in 2 CFR Part 200.403 *Factors affecting allowability of costs*. To recover indirect costs, the LEA determines the amount billed by applying the approved indirect cost rate in effect for a given state fiscal year to the school food service’s direct cost base. This direct cost base is *net* school food service expenditures, or the amount derived by taking total school food service expenditures incurred during that fiscal year, including any disbursements made on a project balance that are bought forward, and deducting certain costs classified in 2 CFR Part 200 as extraordinary or distorting expenditures. These excluded costs include purchased food and USDA food received, equipment purchases and other capital expenditures, debt service, transfer expenditures, internal funds, and contracts in excess of $25,000. For any contracts in excess of $25,000, LEAs must deduct from the direct cost base the difference between the first $25,000 and the full contract value. Contracts with food service management companies, if applicable, fall under this category.

A calculation tool is available in SNPWeb Download Forms depicting the steps for determining the amount of indirect costs eligible for recovery from the NSFSA. This template is optional and does not require submission to the VDOE Office of School and Community Nutrition Programs (SCNP). Divisions may use other methods for calculating indirect cost charges to the NSFSA provided the computations demonstrate that they are consistent with this methodology deducting excluding costs and are adequately documented.

The SFA must review the LEA calculation to verify and validate the accuracy of indirect costs transferred from the NSFSA to the general fund and maintain copies of LEA supporting documentation in its records for federal programs administrative reviews (FPARs) and audit purposes.

### **Reimbursement of Incorrect or Unallowable Indirect Costs Recovered**

Incorrect or unallowable indirect costs charged to the NSFSA can result from the following:

* Applying a rate in excess of the unrestricted rate;
* Use of an unapproved rate or methodology;
* Including the same cost in both the indirect cost pool and the direct cost base;
* Treating a cost inconsistently. The same cost item incurred under the same circumstances must be treated consistently as direct or indirect in all activities in which the program operator incurs that cost.
* Using undocumented costs in the direct cost base; and
* Retroactive recovery of indirect costs from prior years.

It is unallowable to bill the NSFSA for indirect costs that were previously paid from the general fund unless an agreement exists to show that the LEA has been “loaning” the NSFSA funds to cover the indirect costs in one or more prior years. A LEA may only apply a change in policy going forward and documented in the memorandum of understanding with the SFA.

If the SFA determines that the LEA has recovered indirect costs from the NSFSA inconsistent with federal regulations and guidance, it is responsible for initiating a resolution with the LEA in a timely manner. LEA indirect costs recovered which exceed the allowable amount must be promptly returned to the NSFSA and documented with the appropriate accounting entries to the financial records of both the general fund and the NSFSA.

### **Indirect Cost Reporting**

The division must maintain appropriate source documentation for all revenues and expenditures associated with school nutrition programs. Indirect costs recovered must be reported in the School Nutrition Program Financial Report submitted semi-annually in SNPWeb under Expenditure *Line 18. Internal Services*. Instructions for completing the financial report can be found in SNPWeb under Maintenance>Download Forms.

### **Memorandum of Understanding (MOU) for Indirect Cost Recovery**

The process for recovering indirect costs from the NSFSA shall be agreed upon by the LEA and the SFA and documented through a signed memorandum of understanding (MOU) for a period no less than every two years beginning in school year 2024–2025. The MOU will outline the intention of the LEA to bill the NSFSA for indirect costs from the NSLP, SFSP, and CACFP as applicable, as well as the procedure and schedule for recovery. A MOU template is provided as Attachment A to this memo. Divisions may use an alternate agreement provided the necessary components are included and it is executed by both parties prior to recovery of indirect costs. For school year 2023–2024, indirect costs may continue to be recovered without a MOU provided the proper methodology consistent with these requirements has been applied.

### **Compliance Review**

SFA compliance with indirect cost requirements is evaluated by the VDOE-SCNP during federal programs administrative reviews within the 700-Resource Management module. As part of the offsite assessment of resource management areas, the SFA will report to the VDOE-SCNP if the LEA is recovering indirect costs from school nutrition programs. If answered affirmatively, the VDOE-SCNP will conduct a comprehensive review to substantiate that the provisions of the memorandum of understanding for indirect cost recovery are being met.

### **Technical Assistance**

If you have questions regarding indirect cost recovery from the nonprofit school food service account, please email your assigned SNP regional specialist or the SCNP Finance Specialist via email at Shannon.Girouard@doe.virginia.gov.