

Food and Nutrition Service, USDA

§ 247.23

State agency to ensure that the Program at both the State and local levels has been included in audit examinations at a reasonable frequency. These evaluations shall include a review of each State agency, including on-site reviews of selected local agencies. These evaluations will measure the State agency's progress toward meeting the objective outlined in its State Plan and compliance with these regulations.

(c) *Responsibilities of State agencies.* The State agency is responsible for meeting the following requirements:

(1) The State agency shall establish evaluation and review procedures and document the results of such procedures. The procedures shall include, but not be limited to:

(i) Annual monitoring of the operation of all local agencies to evaluate certification procedures, management, nutrition education, civil rights compliance, food storage, inventory accountability, and financial management systems. However, more frequent reviews may be performed as the State agency deems necessary. The State agency shall provide a continuing evaluation of each local agency through on-site reviews of the local agency, reviews of local agency reports including inventory reports, reviews of storage facilities and safeguards for supplemental foods.

(ii) Instituting the necessary followup procedures to correct identified problem areas.

(2) On its own initiative or when required by FNS, the State agency shall provide special reports on Program activities, and take positive action to correct deficiencies in Program operations.

(3) The State agency shall require that local agencies establish Program review procedures to be used in reviewing their own operations and those of subsidiaries or contractors.

(Approved by the Office of Management and Budget under control number 0584-0063)

(44 U.S.C. 3506)

[46 FR 6341, Jan. 21, 1981, as amended at 47 FR 746, Jan. 7, 1982]

§ 247.22 Administrative appeal of State agency decisions.

(a) *Requirements.* The State agency shall provide a hearing procedure whereby a local agency adversely affected by a State action may appeal the action. The right to appeal shall be granted when the local agency's application to participate is denied, when participation is terminated, when a contract is not renewed by the State agency or when any other adverse action which affects participation is taken. The adverse action shall be postponed until a hearing decision is reached.

(b) *Procedure.* The State agency hearing procedure shall at a minimum provide the local agency:

(1) Adequate advance notice of the time and place of the hearing to provide all parties involved sufficient time to prepare for the hearing;

(2) The opportunity to present its case;

(3) The opportunity to confront and cross-examine adverse witnesses;

(4) The opportunity to be represented by counsel, if desired;

(5) The opportunity to review the case record prior to the hearing;

(6) An impartial decision maker, whose decision as to the validity of the State or local agency's action shall rest solely on the evidence presented at the hearing and the statutory and regulatory provisions governing the Program. The basis for the decision shall be stated in writing, although it need not amount to a full opinion or contain formal finding of fact and conclusions of law; and

(7) Written notification of the decision concerning the appeal, within 60 days from the date of the request for a hearing.

§ 247.23 Miscellaneous provisions.

(a) *No aid reduction.* The value of benefits or assistance available under the Program shall not be considered as income to or resources of participants or their families for any purpose under Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare and public assistance programs.