

under this part are not included in determining the State's matching requirements under §210.6 of part 210 of this chapter.

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

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AUTHORITY: 42 U.S.C. 1752, 1758, 1759a, 1772, 1773, and 1779.

§ 245.1 General purpose and scope.

(a) This part established the responsibilities of State agencies, Food and Nutrition Service Regional Offices (where applicable), and School Food Authorities in providing free and reduced price meals and free milk in the National School Lunch Program (7 CFR part 210), the School Breakfast Program (7 CFR part 220), the Special Milk Program for Children (7 CFR part 215), and commodity schools. Section 9 of the National School Lunch Act, as amended, and sections 3 and 4 of the Child Nutrition Act of 1966, as amended, require schools participating in any of the programs and commodity schools to make available, as applicable, free and reduced price lunches, breakfasts, and at the option of the School Food Authority for schools participating only in the Special Milk Program free milk to eligible children.

(b) This part sets forth the responsibilities under these Acts of State agencies, the Food and Nutrition Service Regional Offices, and School Food Authorities with respect to the establishment of income guidelines, determination of eligibility of children for free and reduced price meals, and for free milk and assurance that there is no physical segregation of, or other discrimination against, or overt identification of children unable to pay the full price for meals or milk.

(Sec. 803, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758))

[Amdt. 6, 39 FR 30337, Aug. 22, 1974, as amended by Amdt. 10, 41 FR 28783, July 13, 1976; 47 FR 31852, July 23, 1982]

§ 245.2 Definitions.

(a) *Adult* means any individual 21 years of age or older.

(a-1) *Commodity school* means a school which does not participate in the National School Lunch Program under part 210 of this chapter, but which enters into an agreement as provided in §210.15a(b) to receive commodities donated under part 250 of this chapter for a nonprofit lunch program.

(a-2) *Current income* means income, as defined in §245.6(a), received during the month prior to application. If such income does not accurately reflect the household's annual rate of income, income shall be based on the projected annual household income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual rate of income.

(a-3) *Disclosure* means individual children's program eligibility information obtained through the free and reduced price meal or free milk eligibility process that is revealed or used for a purpose other than for the purpose for which the information was obtained. The term refers to access, release, or transfer of personal data about children by means of print, tape, microfilm, microfiche, electronic communication or any other means.

(a-4) *Documentation means:*

(1) The completion of a free and reduced price school meal or free milk application which includes:

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(i) For households applying on the basis of income and household size, names of all household members; income received by each household member, identified by source of the income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, and social security and other cash income); the signature of an adult household member; and the social security number of the adult household member who signs the application or an indication that he/she does not possess a social security number; or

(ii) For a child who is a member of a food stamp, FDPIR or TANF household: the child's name and appropriate food stamp or TANF case number or FDPIR case number or other identifier; and the name and signature of an adult household member; and

(2) In lieu of completion of the free and reduced price application, information obtained from the State or local agency responsible for the Food Stamp Program, FDPIR or TANF which includes the name of the child; a statement certifying that the child is a member of a currently certified food stamp, FDPIR or TANF household; information in sufficient detail to match the child attending school in the school food authority with the name of the child certified as a member of a food stamp, FDPIR or TANF household; the signature or a copy of the signature of the individual authorized to provide the certification on behalf of the Food Stamp, FDPIR or TANF office, as appropriate; and the date. When the signature is impracticable to obtain, such as in a computer match, other arrangements may be made to ensure that a responsible official can attest to the data.

(b) *Family* means a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit.

(b-1) *FDPIR* means the food distribution program for households on Indian reservations operated under part 253 of this title.

(b-2) *Food Stamp Household* means any individual or group of individuals which is currently certified to receive

assistance as a household under the Food Stamp Program.

(c) *FNSRO where applicable* means the appropriate Food and Nutrition Service Regional Office when that agency administers the National School Lunch Program, School Breakfast Program or Special Milk Program with respect to nonprofit private schools.

(d) *Free meal* means a meal for which neither the child nor any member of his family pays or is required to work in the school or in the school's food service.

(d-1) *Free milk* means milk served under the regulations governing the Special Milk Program and for which neither the child nor any member of his family pays or is required to work in the school or in the school's food service.

(d-2) *Household* means "family" as defined in § 245.2(b).

(e) *Income eligibility guidelines* means the family-size income levels prescribed annually by the Secretary for use by States in establishing eligibility for free and reduced price meals and for free milk.

(f) *Meal* means a lunch or meal supplement or a breakfast which meets the applicable requirements prescribed in §§ 210.10, 210.15a, and 220.8 of this chapter.

(f-1) *Medicaid* means the State medical assistance program under title XIX of the Social Security Act (42 U.S.C. 1396 *et seq.*).

(f-2) *Milk* means pasteurized fluid types of unflavored or flavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk except that, in the meal pattern for infants (0 to 1 year of age) milk means unflavored types of whole fluid milk or an equivalent quantity of reconstituted evaporated milk which meet such standards. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands, if a sufficient supply of such types of fluid milk cannot be obtained, "milk" shall include reconstituted or recombined milk. All milk should contain vitamins A and D at levels specified by the Food and Drug Administration and consistent with

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State and local standards for such milk.

(f-3) *Operating day* means a day that reimbursable meals are offered to eligible students under the National School Lunch Program or School Breakfast Program.

(g) *Reduced price meal* means a meal which meets all of the following criteria: (1) The price shall be less than the full price of the meal; (2) the price shall not exceed 40 cents for a lunch and 30 cents for a breakfast; and (3) neither the child nor any member of his family shall be required to supply an equivalent value in work for the school or the school's food service.

(h) *Service institution* shall have the meaning ascribed to it in part 225 of this chapter.

(i) *School, school food authority*, and other terms and abbreviations used in this part shall have the meanings ascribed to them in part 210 of this chapter.

(j) *Special Assistance Certification and Reimbursement Alternatives* means the three optional alternatives for free and reduced price meal application and claiming procedures in the National School Lunch Program and School Breakfast Program which are available to those School Food Authorities with schools in which at least 80 percent of the enrolled children are eligible for free or reduced price meals, or schools which are currently, or who will be serving all children free meals.

(k) *State Children's Health Insurance Program (SCHIP)* means the State medical assistance program under title XXI of the Social Security Act (42 U.S.C. 1397aa *et seq.*).

(l) *TANF* means the State funded program under part A of title IV of the Social Security Act that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995. This program is commonly referred to as Temporary Assistance for Needy Families, although States may refer to the program by another name.

(m) *Verification* means confirmation of eligibility for free or reduced price benefits under the National School Lunch Program or School Breakfast

Program. Verification shall include confirmation of income eligibility and, at State or local discretion, may also include confirmation of any other information required in the application which is defined as documentation in §245.2(a-4). Such verification may be accomplished by examining information provided by the household such as wage stubs, or by other means as specified in §245.6a(b). However, if a food stamp or TANF case number or a FDPIR case number or other identifier is provided for a child, verification for such child shall only include confirmation that the child is included in a currently certified food stamp, TANF or FDPIR household.

(Secs. 801, 803, 812; Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1759(a), 1773, 1758))

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §245.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 245.3 Eligibility standards and criteria.

(a) Each State agency, or FNSRO where applicable, shall by July 1 of each year announce family-size income standards to be used by School Food Authorities of schools under the jurisdiction of such State agency, or FNSRO where applicable, in making eligibility determinations for free or reduced price meals and for free milk. Such family size income standards for free and reduced price meals and for free milk shall be in accordance with Income Eligibility Guidelines published by the Department by notice in the FEDERAL REGISTER.

(b) Each School Food Authority shall establish eligibility criteria for free and reduced price meals and for free milk in conformity with the family-size income standards prescribed by the State agency, or FNSRO where applicable, under paragraph (a) of this section. Such criteria shall:

(1) For all schools under the jurisdiction of the School Food Authority, specify the uniform family-size income criteria to be used for determining eligibility for free and reduced price meals in schools participating in the National School Lunch or School Breakfast Programs and in commodity-