

(vi) An explanation that households receiving free or reduced price benefits must notify school officials during the school year of any decreases in household size and any increases in income of over \$50 per month or \$600 per year (or a lesser amount if established by the State) or, in the case of households that provided a food stamp or AFDC case number to establish eligibility for free meals or milk for a child, of any termination of certification for receipt of benefits for such children under the Food Stamp or AFDC Programs;

(vii) How a household may apply for benefits at any time during the school year as circumstances change;

(viii) A statement to the effect that children having parents or guardians who become unemployed are eligible for free or reduced price meals or for free milk during the period of unemployment, *Provided*, that the loss of income causes the household income during the period of unemployment to be within the eligibility criteria;

(ix) A statement to the effect that in certain cases foster children are eligible for free or reduced price meals or free milk regardless of the income of the household with whom they reside and that households wishing to apply for such benefits for foster children should contact the School Food Authority;

(x) The statement: "In the operation of child feeding programs, no child will be discriminated against because of race, sex, color, national origin, age or handicap;" and

(xi) How a household may appeal the decision of the School Food Authority with respect to the application under the hearing procedure set forth in § 245.7. The letter or notice shall be accompanied by a copy of the application form required under § 245.6.

(2) On or about the beginning of each school year, a public release, containing the same information supplied to parents, and including both free and reduced price eligibility criteria shall be provided to the informational media, the local unemployment office, and to any major employers contemplating large layoffs in the area from which the school draws its attendance.

(b) Copies of the public release shall be made available upon request to any

interested persons. Any subsequent changes in a school's eligibility criteria during the school year shall be publicly announced in the same manner as the original criteria were announced.

(Sec. 803, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758); Pub. L. 79-396, 60 Stat. 231 (42 U.S.C. 1751); Pub. L. 89-642, 80 Stat. 885-880 (42 U.S.C. 1773); Pub. L. 91-248, 84 Stat. 207 (42 U.S.C. 1759))

[Amdt. 8, 40 FR 57207, Dec. 8, 1975, as amended by Amdt. 10, 41 FR 28783, July 13, 1976; 47 FR 31852, 31853, July 23, 1982; Amdt. 24, 48 FR 19355, Apr. 29, 1983; 49 FR 26034, June 26, 1984; 52 FR 19275, May 22, 1987]

§ 245.6 Application for free and reduced price meals and free milk.

(a) Each School Food Authority of a school participating in the National School Lunch Program, School Breakfast Program or Special Milk Program or of a commodity only school shall provide supplies of a form for use by families in making application for free or reduced price meals or free milk for their children. The application shall be clear and simple in design and the information requested thereon shall be limited to that required to demonstrate that the family does, or does not, meet the eligibility criteria for free or reduced price meals, respectively, or for free milk, issued by the School Food Authority. The information requested on the application with respect to the current income of the household shall be limited to the income received by each member identified by the household member who received the income, and the source of the income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security and other cash income). Other cash income includes cash amounts received or withdrawn from any source, including savings, investments, trust accounts, and other resources which are available for payment of the price of a child's meals or milk. Additionally, the application shall require applicants to provide the names of all household members and the social security number of the adult household member who signs the application. In lieu of a social security number, the household may indicate the adult

household member who signs the application does not possess a social security number. However, if application is being made for a child who is a member of a food stamp household or an AFDC assistance unit, the application shall enable the household to provide the appropriate food stamp or AFDC case number in lieu of names of all household members, household income information and social security number. The application shall also contain substantially the following statements:

(1) Section 9 of the National School Lunch Act requires that, unless your child's food stamp or AFDC case number is provided, you must include the social security number of the adult household member signing the application or indicate that the household member signing the application does not have social security number. Provision of a social security number is not mandatory, but if a social security number is not given or an indication is not made that the signer does not have such a number, the application cannot be approved. The social security number may be used to identify the household member in carrying out efforts to verify the correctness of information stated on the application. These verification efforts may be carried out through program reviews, audits, and investigations and may include contacting employers to determine income, contacting a food stamp or welfare office to determine current certification for receipt of food stamps or AFDC benefits, contacting the State employment security office to determine the amount of benefits received and checking the documentation produced by household members to prove the amount of income received. These efforts may result in a loss or reduction of benefits, administrative claims or legal actions if incorrect information is reported." State agencies and School Food Authorities shall ensure that the notice complies with section 7 of Pub. L. 93-579 (Privacy Act of 1974); and

(2) "In certain cases foster children are eligible for free or reduced price meals or free milk regardless of your household income. If you have such children living with you and wish to apply for such meals or milk for them,

please contact us." The application shall also include a statement, immediately above the space for signature, that the person signing the application certifies that all information furnished in the application is true and correct, that the application is being made in connection with the receipt of Federal funds, that school officials may verify the information on the application, and that deliberate misrepresentation of the information may subject the applicant to prosecution under applicable State and Federal criminal statutes. The application shall be signed by an adult member of the family. The application shall contain clear instructions with respect to the submission of the completed application to the official or officials designated by the School Food Authority to make eligibility determinations on its behalf. A family shall be permitted to file an application at any time during the school year.

(b) *Determination of eligibility.* Prior to the processing of applications for the current school year, children from households with approved applications on file from the preceding year may be served reimbursable free and reduced price meals or free milk. However, applications from the preceding year may be used to determine eligibility only during the 30 operating days following the first operating day at the beginning of the school year, or during a timeframe established by the State agency, provided that any State agency timeframe does not exceed the 30 operating day limit. School officials shall take the income information provided by the household on the application and calculate the household's total current income. When a completed application furnished by a family indicates that the family meets the eligibility criteria for free and reduced price meals or free milk, the family shall be promptly notified and the children from that family shall be provided the benefits to which they are entitled.

(1) *Notice of denial.* When the application furnished by the family is not fully documented or does not meet the eligibility criteria for free or reduced price benefits, school officials shall promptly provide written notice to each family denied benefits. As a minimum, this notice shall include:

(i) The reason for the denial of benefits, e.g. income in excess of allowable limits or incomplete application; (ii) notification of the right to appeal; (iii) instructions on how to appeal; and (iv) a statement reminding parents that they may reapply for free and reduced price benefits at any time during the school year. The reasons for ineligibility shall be properly documented and retained on file at the School Food Authority.

(2) *Appeals of denied benefits.* A family who wishes to appeal a denied application by the School Food Authority may do so as specified in §245.7. However, prior to initiating the hearing procedure, the parent may request a conference to provide the opportunity for the parent and school officials to discuss the situation, present information, and obtain an explanation of the data submitted in the application or the decision rendered. The request for a conference shall not in any way prejudice or diminish the right to a fair hearing. The School Food Authority shall promptly schedule a fair hearing, if requested.

(c) After the letter to parents and the applications have been disseminated, the School Food Authority may determine, based on information available to it, that a child for whom an application has not been submitted meets the School Food Authority's eligibility criteria for free and reduced price meals or for free milk. In such a situation, the School Food Authority shall complete and file an application for such child setting forth the basis of determining the child's eligibility. When a School Food Authority has obtained a determination of individual family income and family-size data from other sources, it need not require the submission of an application for any child from a family whose income would qualify for free or reduced price meals or for free milk under the School Food Authority's established criteria. In such event, the School Food Authority shall notify the family that its children are eligible for free or reduced price meals or for free milk. Nothing in this paragraph shall be deemed to provide authority for the School Food Authority to make eligibility determina-

tions or certifications by categories or groups of children.

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

[35 FR 14065, Sept. 4, 1970, as amended at 38 FR 14957, June 7, 1973; Amdt. 6, 39 FR 30338, Aug. 22, 1974; Amdt. 9, 41 FR 26192, June 25, 1976; Amdt. 19, 45 FR 67287, Oct. 10, 1980; 47 FR 31853, July 23, 1982; 49 FR 26034, June 26, 1984; 52 FR 19275, May 22, 1987; 55 FR 19240, May 9, 1990; 56 FR 32950, July 17, 1991; 56 FR 33860, July 24, 1991]

§245.6a Verification requirements.

(a) *Verification requirement.* School officials may seek verification of the information on the application. State agencies shall ensure that by December 15 of each School Year, School Food Authorities have selected and verified a sample of their approved free and reduced price applications in accordance with the conditions and procedures described in this section. Verification activity may begin at the start of the school year but the final required sample size shall be based on the number of approved applications on file as of October 31. Any extensions to these deadlines must be approved in writing by FCS. School Food Authorities are required to satisfy the verification requirement by using either random sampling or focused sampling as described below. *Random* sampling consists of verifying a minimum of the lesser of 3 percent or 3,000 applications which are selected by the School Food Authority. *Focused* sampling consists of selecting and verifying a minimum of: the lesser of 1 percent or 1,000 of total applications selected from non-food stamp households claiming monthly income within \$100 or yearly income within \$1200 of the income eligibility limit for free or reduced price meals; plus the lesser of one half of 1 percent (.5%) or 500 applications of food stamp households that provided food stamp case numbers in lieu of income information. A State may require all School Food Authorities to perform either random or focused sampling. School Food Authorities may choose to verify up to 100 percent of all applications to improve program integrity. Any State may, with the written approval of FCS, assume responsibility for complying with the verification requirements of this