

Food and Nutrition Service, USDA

§ 245.12

(v) Meal counts were incorrectly taken or incorrectly applied.

(4) *State agency recordkeeping.* State agencies shall retain the following information annually for the month of October and, upon request, submit to FNS:

(i) The number of schools using Provision 1, Provision 2 and Provision 3 for NSLP;

(ii) The number of schools using Provision 2 and Provision 3 for SBP only;

(iii) The number of extensions granted to schools using Provision 2 and Provision 3 during the previous school year;

(iv) The number of extensions granted during the previous year on the basis of SNAP/FDPIR data;

(v) The number of extensions granted during the previous year on the basis of Temporary Assistance for Needy Families (TANF) data;

(vi) The number of extensions granted during the previous year on the basis of local data collected by a city or county zoning and/or economic planning office;

(vii) The number of extensions granted during the previous year on the basis of applications collected from enrolled students;

(viii) The number of extensions granted during the previous year on the basis of statistically valid surveys of enrolled students; and

(ix) The number of extensions granted during the previous year on the basis of alternate data as approved by the State agency's respective FNS Regional Office.

(5) *State agency approval.* Prior to approval for participation under Provision 2 or Provision 3, State agencies shall ensure school and/or school food authority program compliance as required under §§ 210.19(a)(4) and 220.13(k) of this chapter.

(i) No later than March 1, 2005 and by March 1st each year thereafter, each State agency must collect annual verification data from each local educational agency as described in § 245.6a(c) and in accordance with guidelines provided by FNS. Each State agency must analyze these data, determine if there are potential problems, and formulate corrective actions and technical assistance activities that

will support the objective of certifying only those children eligible for free or reduced price meals. No later than April 15, 2005 and by April 15 each year thereafter, each State agency must report to FNS the verification information in a consolidated electronic file that has been reported to it as required under § 245.6a(c), by local educational agency, and any ameliorative actions the State agency has taken or intends to take in local educational agencies with high levels of applications changed due to verification. Contingent upon new funding to support this purpose, FNS will also require each State agency to report the aggregate number of students who were terminated as a result of verification but who were reinstated as of February 15th. The first report containing this data element would be required in the school year beginning July 1, 2005 and each school year thereafter. State agencies are encouraged to collect and report any or all verification data elements before the required dates.

(Secs. 801, 803, 812; Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1758, 1759(a), 1773, 1778))

[35 FR 14065, Sept. 4, 1970, as amended at 38 FR 14958, June 7, 1973; Amdt. 8, 40 FR 57208, Dec. 8, 1975; 44 FR 1364, Jan. 5, 1979; 46 FR 51368, Oct. 20, 1981; 48 FR 12511, Mar. 25, 1983; 52 FR 19276, May 22, 1987; 64 FR 50744, Sept. 20, 1999; 64 FR 72474, Dec. 28, 1999; 66 FR 48333, Sept. 20, 2001; 68 FR 53490, Sept. 11, 2003; 72 FR 63796, Nov. 13, 2007; 76 FR 22802, Apr. 25, 2011]

EFFECTIVE DATE NOTE: At 68 FR 53490, Sept. 11, 2003, § 245.11(i) was added. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 245.12 Fraud penalties.

(a) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this part, whether received directly or indirectly from the Department, shall—

(1) If such funds, assets, or property are of a value of \$100 or more, be fined not more than \$25,000 or imprisoned not more than five years of both; or

(2) If such funds, assets, or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than one year or both.

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(b) Whoever receives, conceals, or retains to his use or gain funds, assets, or property provided under this part, whether received directly or indirectly from the Department, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties provided in paragraph (a) of this section.

(Sec. 10(a), Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760); sec. 14, Pub. L. 95-627, 92 Stat. 3625-3626)

[Amdt. 14, 44 FR 37901, June 29, 1979, as amended at 64 FR 50744, Sept. 20, 1999]

§ 245.13 Information collection/record-keeping—OMB assigned control numbers.

7 CFR section where requirements are described	Current OMB control number
245.3 (a), (b)	0584-0026
245.4	0584-0026
245.5 (a), (b)	0584-0026
245.6 (a), (b), (c), (e)	0584-0026
245.7(a)	0584-0026
245.9 (a), (b), (c)	0584-0026
245.10 (a), (d), (e)	0584-0026
245.11 (a), (a-1), (b), (c), (d), (f)	0584-0026
245.13(a)-(c)	0584-0026

[72 FR 68985, Dec. 6, 2007, as amended at 73 FR 11312, Mar. 3, 2008]

PART 246—SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN

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- 246.26 Other provisions.
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AUTHORITY: 42 U.S.C. 1786.

SOURCE: 50 FR 6121, Feb. 13, 1985, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 246 appear at 76 FR 35097, June 16, 2011.

Subpart A—General

§ 246.1 General purpose and scope.

This part announces regulations under which the Secretary of Agriculture shall carry out the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program). Section 17 of the Child Nutrition Act of 1966, as amended, states in part that the Congress finds that substantial numbers of pregnant, postpartum and breastfeeding women, infants and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. The purpose of the Program is to provide supplemental foods and nutrition education, including breastfeeding