

Food and Nutrition Service, USDA

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year thereafter, each State agency must report to FNS, in a consolidated electronic file by local educational agency, the verification information that has been reported to it as required under § 245.6a(h), as well as 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. 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; 78 FR 12230, Feb. 22, 2013]

§ 245.12 State agencies and direct certification requirements.

(a) *Direct certification requirements.* State agencies are required to meet the direct certification performance benchmarks set forth in paragraph (b) of this section for directly certifying children who are members of households receiving assistance under SNAP. A State agency that fails to meet the benchmark must develop and submit to FNS a continuous improvement plan (CIP) to fully meet the requirements of this paragraph and to improve direct certification for the following school year in accordance with the provisions in paragraphs (e), (f), and (g) of this section.

(b) *Direct certification performance benchmarks.* State agencies must meet performance benchmarks for directly certifying for free school meals children who are members of households receiving assistance under SNAP. The performance benchmarks are as follows:

- (1) 80% for the school year beginning July 1, 2011;
- (2) 90% for the school year beginning July 1, 2012; and
- (3) 95% for the school year beginning July 1, 2013, and for each school year thereafter.

(c) *Data elements required for direct certification rate calculation.* Each State agency must provide FNS with specific data elements each year, as follows:

(1) *Data Element #1*—The number of children who are members of households receiving assistance under SNAP that are directly certified for free school meals as of the last operating day in October, collected and reported in the same manner and timeframes as specified in § 245.11(i).

(2) *Data Element #2*—The unduplicated count of children ages 5 to 17 years old who are members of households receiving assistance under SNAP at any time during the period July 1 through September 30. This data element must be provided by the SNAP State agency, as required under 7 CFR 272.8(a)(5), and reported to FNS and to the State agency administering the NSLP in the State by December 1st each year, in accordance with guidelines provided by FNS.

(3) *Data Element #3*—The count of the number of children who are members of households receiving assistance under SNAP who attend a school operating under the provisions of 7 CFR 245.9 in a year other than the base year or that is exercising the community eligibility option (CEO). The proxy for this data element must be established each school year through the State's data matching efforts between SNAP records and student enrollment records for these special provision schools that are operating in a non-base year or that are exercising the CEO. Such matching efforts must occur in or close to October each year, but no later than the last operating day in October. However, States that have special provision schools exercising the CEO may alternatively choose to include, for these schools, the count of the number of identified students directly matched with SNAP used in determining the CEO claiming percentage for that school year, or they may choose to use the count from the SNAP match conducted by April 1 of the same calendar year, whether or not it was used in the CEO claiming percentages. State agencies must report this aggregated data element to FNS by December 1st each year, in accordance with guidelines provided by FNS.

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(d) *State notification.* For each school year, FNS will notify State agencies that fail to meet the direct certification performance benchmark.

(e) *Continuous improvement plan required.* A State agency having a direct certification rate with SNAP that is less than the direct certification performance benchmarks set forth in paragraph (b) of this section must submit to FNS for approval, within 90 days of notification, a CIP in accordance with paragraph (f) of this section.

(f) *Continuous improvement plan required components.* CIPs must include, at a minimum:

(1) The specific measures that the State will use to identify more children who are eligible for direct certification, including improvements or modifications to technology, information systems, or databases;

(2) A multiyear timeline for the State to implement these measures;

(3) Goals for the State to improve direct certification results for the following school year; and

(4) Information about the State's progress toward implementing other direct certification requirements, as provided in FNS guidance.

(g) *Continuous improvement plan implementation.* A State must maintain its CIP and implement it according to the timeframes in the approved plan.

[78 FR 12230, Feb. 22, 2013]

§ 245.13 **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.

(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,

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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. Redesignated at 78 FR 12230, Feb. 22, 2013]

§ 245.14 **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. Redesignated at 78 FR 12230, Feb. 22, 2013]

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

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