

## Food and Nutrition Service, USDA

## § 245.1

that period which meet the nutritional requirements specified in §210.10 of this chapter.

### § 240.9 Use of funds.

(a) Funds made available to school food authorities (for program schools), service institutions and nonresidential child care institutions under this part shall be used only to purchase United States agricultural commodities and other foods for use in their food service under the National School Lunch Program, Child Care Food Program, or Summer Food Service Program for Children, as applicable. Such foods shall be limited to those necessary to meet the requirements set forth in §210.10 of part 210 of this chapter, §225.10 of part 225 of this chapter and §226.10 of part 226 of this chapter, respectively. On or before disbursing funds to school food authorities (for program schools), service institutions and nonresidential child care institutions, State agencies and FNSRO's shall notify them of the reason for special disbursement, the purpose for which these funds may be used, and, if possible, the amount of funds they will receive.

(b) Cash payments received under §240.5 of this part shall be used only to pay donated-food processing and handling expenses of commodity schools.

(c) Funds provided under this part shall be subject to the Department's Uniform Federal Assistance Regulations (7 CFR part 3015).

### § 240.10 Unobligated funds.

State agencies shall release to FNS any funds paid to them under this part which are unobligated at the end of each fiscal year. Release of funds by any State agency shall be made as soon as practicable, but in any event, not later than 30 days following demand by FNS. Release of funds shall be reflected by a related adjustment in the State agency's Letter of Credit where appropriate or payment by State check where the funds have been paid by United States Treasury Department check.

### § 240.11 Records and reports.

(a) State agencies and distributing agencies shall maintain records and re-

ports on the receipt and disbursement of funds made available under this part, and shall retain such records and reports for a period of three years after the end of the fiscal year to which they pertain, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit.

(b) State agencies shall establish controls and procedures which will assure that the funds made available 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

### Sec.

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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, school food authorities or local educational agencies, as defined in §245.2, as applicable in providing free and reduced price meals and free milk in the

## § 245.2

## 7 CFR Ch. II (1–1–16 Edition)

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, school food authorities or local educational agencies, as applicable, 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; 72 FR 63792, Nov. 13, 2007]

### § 245.2 Definitions.

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

*Categorically eligible* means considered income eligible for free meals or free milk, as applicable, based on documentation that a child is a member of a *Family*, as defined in this section, and one or more children in that family are receiving assistance under *SNAP*, *FDPIR* or the *TANF* program, as defined in this section. A *Foster child*, *Homeless child*, a *Migrant child*, a *Head Start child* and a *Runaway child*, as defined in this section, are also categorically eligible. Categorical eligibility and automatic eligibility may be used synonymously.

*Commodity school* means a school which does not participate in the National School Lunch Program under part 210 of this chapter, but which en-

ters into an agreement as provided in § 210.15a(b) to receive commodities donated under part 250 of this chapter for a nonprofit lunch program.

*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.

*Direct certification* means determining a child is eligible for free meals or free milk, as applicable, based on documentation obtained directly from the appropriate State or local agency or individuals authorized to certify that the child is a member of a household receiving assistance under *SNAP*, as defined in this section; is a member of a household receiving assistance under *FDPIR* or under the *TANF* program, as defined in this section; a *Foster child*, *Homeless child*, a *Migrant child*, a *Head Start child* and a *Runaway child*, as defined in this section.

*Disclosure* means reveal or use individual children's program eligibility information obtained through the free and reduced price meal or free milk eligibility process 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.

*Documentation* means:

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

(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 last four digits of the social security number of the adult household