

State agency establish an evaluation procedure to ensure that the nutrition education provided is effective. The evaluation procedure must include participant input and must be directed by a nutritionist or other qualified professional. The evaluation may be performed by the State or local agency or, by another agency under agreement with the State or local agency.

In paragraph (b), entitled *What type of nutrition education must the local agency provide?*, we propose to clarify nutrition education requirements by consolidating the two broad goals currently included in regulations and the current information that the local agency must provide. We propose to reword the informational requirements to put more emphasis on the relationship of the program to overall diet and good health. We also propose to include in this paragraph the current requirement that the local agency provide nutrition education that is easily understood, that is related to participants' nutritional needs and household situations, and that accounts for ethnic and cultural characteristics whenever possible. We propose that the local agency provide the participant with information on:

(1) The nutritional value of the foods provided in the program, and their relationship to the overall dietary needs of the population groups served.

(2) Nutritious ways to use the foods.

(3) Special nutritional needs of participants and how these needs may be met.

(4) For pregnant and postpartum women, the benefits of breastfeeding.

(5) The importance of health care, and the role nutrition plays in maintaining good health.

(6) The importance of the use of the foods by the participant to whom they are distributed, and not by another person.

We propose to remove the current language that the local agency direct program funds to nutrition education for participants and program staff. Local agencies may choose to meet nutrition education requirements through use of other available resources, such as those provided by the Expanded Food, Nutrition and Education Program (EFNEP) or the Indian Health Service.

Under paragraph (c), entitled *To whom must local agencies provide nutrition education?*, we propose to include the present requirement that local agencies make nutrition education available to all adult participants, and to parents or guardians of infants and child participants. We also propose to include the present encouragement to make

nutrition education available to children, where appropriate.

Under paragraph (d), entitled *May CSFP foods be used in cooking demonstrations?*, we include the current provision that the State or local agency, or an agency with which it has signed an agreement, may use CSFP foods in conducting cooking demonstrations as part of the nutrition education provided to program participants, but not for other purposes.

#### *Dual Participation, Section 247.19*

Currently, under § 247.7(j), State and local agencies are responsible for the detection and prevention of dual participation. Dual participation may entail simultaneous participation in WIC and CSFP, or simultaneous participation at more than one CSFP site. The State CSFP agency must agree on a plan with the State WIC agency to detect and prevent dual participation. The agreement must be in writing and must be included in the State Plan. To aid in preventing dual participation, the local agency must check the identification of each participant. We propose to include the requirements for the prevention and detection of dual participation without substantial change in paragraph (a) of this proposed § 247.19.

Currently, when a participant is determined to be committing dual participation, the participant must be terminated from one of the programs, and must be notified of termination from the other program, if, in accordance with § 247.7(k), the local agency exercises the option to disqualify the participant. In paragraph (b) of this proposed section, we propose to include the actions that the local agency must take against an individual determined to be committing dual participation. We propose to clarify that the local agency may, in some instances, be required to disqualify a participant determined to be committing dual participation, in accordance with requirements relative to program violations in the proposed § 247.20. We also propose to include that the local agency must initiate a claim against the participant to recover the value of benefits improperly received, in accordance with the proposed § 247.30(c).

#### *Program Violations, Section 247.20*

Currently, under § 247.7(k), the State agency may disqualify applicants and participants from CSFP if the applicant, participant, parent, or caretaker is found to have fraudulently applied for, or obtained, program benefits. The State agency may establish a period of disqualification of up to 3 months.

Fraud is defined in the current regulations as the commission of specific actions (which are listed) taken knowingly, willingly, and deceitfully. In this proposed § 247.20, we propose to list, in paragraph (a), actions which are subject to disqualification as program violations. Of the current list, we propose to remove the alteration of program documents to receive increased benefits or to transfer benefits; this action is included under intentionally making false or misleading statements, orally or in writing, which is retained from the current list. We propose to add as a program violation the physical abuse, or threat of physical abuse, of program staff. This problem has been related by some State and local agencies and has already been included as a program violation in regulations for the WIC Program. Other changes made to the current list are simply for the purpose of clarification.

In paragraph (b), we propose to describe the disqualification penalties for committing program violations. We propose to allow the State agency to establish a disqualification period of up to one year, instead of up to three months. Additionally, we propose to require that the State agency require local agencies to disqualify participants from CSFP for a period of up to one year for program violations that involve fraud, unless the local agency determines that disqualification would result in a serious health risk. We also propose to require that State agencies require local agencies to permanently disqualify participants who commit three program violations that involve fraud. For purposes of this program, we propose to clarify that fraud includes the following actions:

(1) Intentionally making false or misleading statements to obtain CSFP commodities.

(2) Intentionally withholding information to obtain CSFP commodities.

(3) Selling CSFP commodities, or exchanging them for non-food items.

Individuals who commit dual participation may have committed a fraudulent act and be subject to the required disqualification. CSFP program operators, as well as those for the WIC Program, have expressed the need for stronger sanctions against persons committing dual participation and other program violations. Similar proposals regarding the strengthening of penalties for program violations were adopted by the WIC Program in a final rule published in the **Federal Register** at 65 FR 83248 on December 29, 2000 (effective February 27, 2001). Thus, these proposals for CSFP would bring