

Eligibility Manual For School Meals

Federal
Policy
for
Determining
and
Verifying
Eligibility

Child Nutrition Programs
Food and Nutrition Service
U.S. Department of Agriculture

This manual contains information on Federal requirements regarding the determination and verification of eligibility for free and reduced price meals in the National School Lunch Program and the School Breakfast Program. These provisions also apply to the determination of eligibility for free milk under the Special Milk Program and are generally applicable to the Child and Adult Care Food Program and the Summer Food Service Program when individual children's eligibility must be established. Local school food service operators should also confer with their State agency to determine which procedures and options are followed in their State.

This manual replaces the Eligibility Guidance for School Meals Manual issued in August 2001. This updated version reflects changes made as a result of the Child Nutrition and WIC Reauthorization Act of 2004, final and interim regulations, and policy clarifications issued since August 2001.

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Introduction

This manual contains information on determining eligibility for free and reduced price meals for the:

- National School Lunch Program including commodity schools and the after school snack service; and
- School Breakfast Program.

It is also applicable to the Special Milk Program for Children when schools and institutions serve free milk to eligible children. While this eligibility guidance directly addresses the school programs, it is also generally applicable to the Child and Adult Care Food Program (CACFP), 7 CFR Part 226, and the Summer Food Service Program (SFSP), 7 CFR Part 225, when individual children's eligibility must be established.

Statutory and Regulatory Authority

Statutory authority for the school meals and milk programs are found in the Richard B. Russell National School Lunch Act (NSLA) and the Child Nutrition Act of 1966 (CNA). Regulatory authority is found, as follows, in the Code of Federal Regulations, (CFR):

- 7 CFR Part 210, National School Lunch Program (NSLP);
- 7 CFR Part 215, Special Milk Program for Children (SMP);
- 7 CFR Part 220, School Breakfast Program (SBP);
- 7CFR Part 245, Determining eligibility for free and reduced price meals and free milk in schools.

Administration of the Programs

The school meals programs are administered at the Federal level by the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture (USDA). At the State level, the programs are administered by the State agency (SA) designated in each state. If State law prevents the State from administering the program, it may be administered by the appropriate FNS Regional Office (FNSRO).

Keeping Up to Date

Regularly check the Child Nutrition Division's website at www.fns.usda.gov/cnd for recently posted regulations, policy clarifications, prototype application materials and other information. State agencies may also access the PartnerWeb at <https://www.partnerweb.usda.gov/ifx/index.htm>.

Part 1: General Requirements

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- A. General Requirements
- B. Policy Statement
- C. Public (Media) Release
- D. Terms Used in this Manual

Part 1: General Requirements

A. General Requirements

State agencies (SAs) that administer the school meals programs *must* issue free and reduced price policy guidance and any other instructions necessary to local agencies to ensure they are aware of Federal and State requirements pertaining to free and reduced price meals and free milk. Further, local agencies *must* provide free and reduced price benefits to eligible children in accordance with the statutory and regulatory requirements as detailed in this manual.

All schools participating in the NSLP or SBP *must* make free and reduced price meals available to eligible children, and all schools and institutions participating in the free milk option of the SMP *must* make free milk available to eligible children.

Prior to 2004, the term “school food authority (SFA)” was used for local agencies administering the school meals programs. In 2004, the Child Nutrition and WIC Reauthorization Act (Reauthorization Act) added the term “local educational agency” to identify the entity responsible for application, certification, and verification activities for the NSLP, SBP and SBP.

Local educational agency (LEA) means:

- the public board of education or other public or private nonprofit authority legally constituted within a State for the administrative control of public or private nonprofit schools in a political subdivision of a State;
- an administrative agency or a combination of school districts or counties that is recognized by the State;
- any other public or private nonprofit institution or agency having administrative control and direction of a public or private nonprofit schools, residential child care institutions; or
- the State educational agency in a State or territory in which the State educational agency is the sole educational agency for all public or private nonprofit schools.

For the purposes of this guidance, LEA is used when discussing application, certification, and verification activities. The term “school food authority” or SFA is used when discussing other activities. An SFA is defined as the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate the school meals programs in those schools.

B. Policy Statement

Each LEA participating in the NSLP, SBP or the SMP (with the free milk option) *must* have an approved free and reduced price policy statement on file at the SA or the Food and Nutrition Service Regional Office (FNSRO), if the program is

administered by the FNSRO. If an LEA is just starting its participation in the NSLP, SBP or SMP, it *must* submit its policy statement to the SA for approval. Once approved, the policy statement becomes a permanent document, amended when the LEA makes a significant change in its free and reduced price policy. See Appendix A for the requirements for the policy statement and amendments.

Policy Statement for the SMP

A free policy statement must be submitted to and approved by the SA for LEAs participating in the SMP with the free milk option. An LEA may submit a single policy statement for the NSLP/SBP and SMP when some of its schools participate in the SMP and others participate in the NSLP/SBP. Specific instructions on the development of the policy statement and policy approval process are provided to LEAs by the SA.

C. Public (Media) Release

Near the beginning of each school year, the public must be notified that the NSLP, SBP and/or SMP are available in the school or school district. This notice must include the eligibility criteria for free and reduced price meals and/or free milk. It must be provided to the local news media, the employment office, and any major employers who are contemplating large layoffs in the attendance area of the school.

The public release must also include information that households receiving assistance under the Food Stamp Program, Food Distribution Program on Indian Reservations (FDPIR), if applicable, or Temporary Assistance to Needy Families Program (TANF) for their children will be notified of their eligibility and that their children will be provided free benefits unless the household notifies the school that it chooses to decline benefits. It must also say that households receiving assistance under the Food Stamp Program, FDPIR or TANF should only submit an application if they are not notified of their eligibility by a specified date determined by the school.

The public release must contain the same information supplied in the letter to households (see C. Informing Households in Part 2 of this manual), except that the public release must contain both the free and reduced price income eligibility guidelines (IEGs). However, a public release that only refers to the SMP should not contain reduced price IEGs.

The SA may make the public release on behalf of its LEAs. In this case the free and reduced price policy statement must specify exactly what responsibilities the SA will assume, such as sending the public release to the local media, employment office, etc., and the names of the schools affected by the policy.

Copies of the public release *must* be made available upon request to any interested person.

D. Terms Used in this Manual

Categorically eligible children are those who are automatically eligible for free benefits because of the status as one of the following:

- A member of a household, as determined by the administering agency, receiving assistance under the Food Stamp Program, the Food Distribution Program on Indian Reservations (FDPIR) or the Temporary Assistance for Needy Children Program (TANF) [TANF is the Federal designation; each State has its own name and acronym];
- Enrollment in a Head Start or Even Start program on the basis of meeting that program's low-income criteria;
- A homeless child as determined by the school district's homeless liaison or by the director of a homeless shelter;
- A migrant child as determined by the State or local Migrant Education Program (MEP) coordinator;
- A runaway child who is receiving assistance from a program under the Runaway and Homeless Youth Act and is identified by the local educational liaison.

Direct certification means determining children eligible for free benefits based on documentation obtained directly from the appropriate State or local agency or other individual authorized to certify that the children are members of a Food Stamp household or are members of a household receiving assistance under FDPIR or under TANF. Homeless, migrant, runaway or Head Start/Even Start children are also directly certified.

Direct verification means using public records as means to verify children's eligibility for free and reduced price meals. Direct verification may be conducted with the Food Stamp Program, FDPIR, and TANF and, to a limited extent, with the Medicaid program.

Free Meal is a meal served in the NSLP or SBP to a child eligible for such benefits under 7 CFR Part 245. Neither the child nor any member of the household pays or is required to work in the school or in the school's food service.

Free Milk is milk served in the SMP to a child eligible for free milk under 7 CFR Part 245. Neither the child nor any member of the household pays or is required to work in the school or in the school's food service.

Income eligibility guidelines are the household size and income levels prescribed annually by the Secretary of Agriculture for determining eligibility for free and reduced price meals and for free milk. The free guidelines are at or below 130 percent of the Federal poverty guidelines and the reduced price guidelines are between 130 and at or below 185 percent of the Federal poverty guidelines.

Overt Identification means any action that openly identifies children as eligible for free or reduced price benefits in the NLSP, SBP or SMP.

Reduced Price Meal is a lunch priced at 40 cents or less, an afterschool snack of 15 cents or less or a breakfast served at 30 cents or less, to a child eligible for such benefits under 7 CFR Part 245.

RCCI (Residential Child Care Institution) is generally any distinct part of a public or nonprofit private institution that (1) maintains children in residence; (2) operates principally for the care of children; and (3) if private, is licensed by the State or local government to provide residential child-care services under the appropriate licensing code. The regulatory definition of "School" for NSLP, SBP and SMP includes RCCIs. See Parts 2 and 4 of this manual for additional guidance on how to certify residents of RCCIs.

School Year is the period between July 1 and June 30.

Part 2: Application Materials

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Part 2: Application Materials

A. Design of the Application and Related Materials

The application and all supporting materials must be clear and simple in design and in an understandable and uniform format. The application materials must also conform to the requirements described in this part.

B. Foreign Language Translations

The application materials and other communications with households concerning eligibility determinations must be, to the maximum extent practicable, in a language that parents and guardians can understand. Where households need information in a language other than English, LEAs must make reasonable efforts, considering the number of such households, to provide household letters and application forms to them in languages other than English.

The FNS web site at www.fns.usda.gov/cnd has the prototype application and materials translated in a number of languages. LEAs are encouraged to provide households with assistance in completing applications through the use of personnel proficient in foreign languages.

C. Informing Households

Each year at the beginning of school, letters must be distributed to the households of children attending the school. This letter tells families which school nutrition programs are available and that meals may be available free or at a reduced price, or that milk may be available free. All LEAs must be able to provide households with paper applications and materials.

The letter should be sent to households of all schoolchildren before the beginning of the school year or early as possible in the school year so that eligibility determinations may be made and free and reduced price benefits provided as soon as possible. LEAs should send out the letter no earlier than four calendar weeks prior to the time students start school. Normally, this would be in mid-July through early September. Letters cannot be sent home at the end of the school year for the next year nor can the LEA begin accepting and processing applications before the beginning of the federally defined school year which is July 1 through June 30. As year-around schools usually follow the July 1-June 30 school year, they would distribute letters in June.

NOTE: LEAs cannot send letters home at the end of the school year for the next school year nor can the LEA begin accepting and processing applications before July 1.

Late Enrollments

Households enrolling new students in an LEA after the start of the school year must be provided a letter and an application form and materials when they enroll.

Paper-based application processing

If the LEA uses paper applications, an application form and instructions **must** be included with the letter to households.

Computer or web-based application processing

If the LEA uses a computer or web-based system to process applications, the letter must inform the household how to access the system in order to apply for benefits. In addition, the letter **must** explain to the household how to obtain and submit a paper application. This may be done by including a telephone number or a form to return requesting that an application be sent.

Contents of the Information Letter

The letter must contain the following information:

- Income Eligibility Guidelines:
 - For schools participating in the NSLP or SBP only the reduced price guidelines may be included, with an explanation that households with incomes at or below the reduced price limits are eligible for either free or reduced price meals;
 - For schools participating in the SMP with the free milk option, the free guidelines must be included;
 - For schools participating in the NSLP or SBP and also participating in the SMP with the free milk option for their split-session kindergarten students, both sets of guidelines *must* be included;
- Instructions on how to apply for free or reduced price meals or for free milk including that only one application is required for all children in the household;
- An explanation that an application for free or reduced price benefits cannot be approved unless it contains complete eligibility information as indicated on the application and instructions;
- A statement that foster-children may be eligible for free or reduced price meals or free milk regardless of the income of the households with whom they reside and an explanation about how to contact the LEA for assistance or how to complete the application for a foster child;
- An explanation that households with children who are members of currently certified Food Stamp, FDPIR or TANF households may submit applications for these children with the abbreviated information as indicated on the application and instructions;
- An explanation that households with children who are enrolled in the Head Start/Even Start Program or the Migrant Education Program or who are

considered homeless or runaway by the school district's homeless liaison should contact the school for assistance in receiving benefits;

- An explanation that the information submitted on the application may be subject to verification;
- A statement that a household may apply for benefits at any time during the school year;
- A statement that children of parents or guardians who become unemployed may be eligible for free or reduced price meals or for free milk during the period of unemployment;
- A statement to the effect that the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) participants may be eligible for free or reduced price meals;
- An explanation that a household may appeal the decision of the LEA with respect to the application using the hearing procedure described in the LEA's free and reduced price policy statement;
- The following two statements must be included **as written**:
 - In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discrimination on the basis of race, color, national origin, sex, age or disability;
 - To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer.
- The LEA should also include local contact information if the household has questions about the application process.

D. Household Applications

LEAs must provide household applications to families applying for free or reduced price meals or free milk benefits. A household application is submitted by a household for all children in that household that attend schools in the same LEA.

LEAs cannot require one application for each child in a household except as discussed in the Exemptions to Household Applications.

Further, LEAs cannot require separate applications for households with some children who are eligible based on categorical eligibility and some who are applying based on household income.

Exemptions to Household Applications

Foster Children

Each foster child is considered a household of one and an application must be completed for each foster child in the household.

In lieu of individual applications, the LEA may accept a list from the court or the agency responsible for the placement of foster children. The list must provide

information indicating the child's name, any personal income received by the child, the child's current address, and, if known, the school that child is currently attending. The list must be signed by an appropriate official and provide the official's title and contact information.

Residents of RCCIs

Each child residing in an RCCI is considered a household of one. An application must be completed for each child or the RCCI may use an eligibility documentation sheet for all children residing in the RCCI. The documentation sheet must provide information indicating the child's name and personal income received by the child. The documentation sheet must be signed by an appropriate official and provide the official's title and contact information.

Children attending but not residing in an RCCI are considered members of their household and their eligibility is determined using a household application or through direct certification.

E. Electronic Applications/Scanning Paper Applications

The LEA may make the application and supporting materials available electronically via the Internet. In addition, the LEA may accept applications electronically and may provide for electronic signatures for such submissions. All disclosure restrictions must be met and acceptance of the application and electronic signatures must be in accordance with guidance issued by FNS. (See Appendix E.)

The LEA may also scan paper applications submitted. The scanning process must meet all regulatory requirements as well as perform functions as outlined in this guidance. For example, the software/scanner system must be able to recognize and accept less than whole dollar amounts.

Note: USDA and FNS do not evaluate, recommend, approve or endorse any software used for certification or verification purposes. There are no Federal specifications for software vendors. LEAs are responsible for assuring that the certification and verification processes meet all regulatory requirements and policies. Therefore, if software is used to perform all or part of the certification or verification process, the LEA must assure the software used is performing correctly and meets all requirements.

F. Contents of the Application

Except for the information in the attesting statement, the required information on the application form may be separate from the signature block. For example, the Privacy Act statement may be referred to in the signature block but may be on the reverse side of the application or included with the instructions on how to complete the form.

The application form **must** contain:

- Privacy Act Statement
- A statement explaining the protections of the Privacy Act which addresses the following:
 - ◆ the disclosure of a social security number is voluntary; however, a social security number, or an indication of “none,” is required for approval of the application;
 - ◆ the social security number is required under provisions of the NSLA; and
 - ◆ all potential uses that may be made of the social security number.
- Foster Child Statement

A statement explaining how a foster child applies which says:

 - ◆ “In certain cases foster children are eligible for free or reduced price meals or free milk regardless of the household’s income. If you have foster children living with you and wish to apply for such meals or milk for them, please contact us.”
 - ◆ In lieu of this statement, the LEA may include instructions on how to apply for a foster child.
- Attesting Statement

A statement **directly above** the signature block for the signing adult to certify that:

 - ◆ the person signing is furnishing true information and to advise that person that the application is being made in connection with the receipt of Federal funds;
 - ◆ school officials may verify the information on the application;
 - ◆ deliberate misrepresentation of the information may subject the applicant to prosecution under State and Federal statutes; and
 - ◆ the Privacy Act statement OR a reference to the Privacy Act statement and where the complete statement can be found in the application materials.

Addressing Categorical Eligibility and Income Eligibility

The application must provide space for identifying each child separately as a member of a Food Stamp, FDPIR or TANF household. This is necessary because of the possibility of “mixed” households in which some children may be

part of a Food Stamp, FDPIR or TANF household and some may not. Those children who are members of the Food Stamp, FDPIR or TANF household **must** be given the opportunity to apply under categorical eligibility criteria.

Use of Application for Other Purposes

A school or LEA wishing to require income information from **all** households with enrolled children must secure that income information through means other than the household's application for free or reduced price school meal benefits. If schools or LEAs collect such information for non-NSLP, -SBP or -SMP purposes, the applications may not be labeled as applications for benefits under the school meals/milk programs or give any indication that such benefits are contingent upon a household returning the application. If LEAs provide households with multi-use applications, which include both meal program benefits as well as non-food benefits, they must ensure that the process does require submission of an application for free or reduced meal or free milk benefits.

Distribution and processing applications solely for information about household income to determine the school district's funding for programs other than the school meals programs or to determine eligibility for other assistance programs is not a requirement for NSLP or SBP purposes. Therefore, funds in the nonprofit school food service account cannot be used to pay the costs associated with collecting and processing such information.

G. Questions and Answers

Q1. *How do I handle the distribution of applications for year-round schools?*

A Applications should be distributed on or about July 1, or soon thereafter, so that households are provided with current eligibility criteria and so that eligibility determinations are based on the current Income Eligibility Guidelines.

Q2. *In a computerized operation, may I submit a pre-printed copy of last year's application for the household to confirm the accuracy of the application and sign it? If not, what items may I preprint?*

A It is the household's responsibility to complete the application. The LEA may send households an application with the child's name, and the household's name and address preprinted on it. No other information required for an eligibility determination may be preprinted.

Part 3: Processing Applications

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Part 3: Processing Applications

A. Submitting an Application

Unless the children in a household are determined eligible through direct certification, the family must submit an application to receive free or reduced price meals or free milk. The information that the household must provide depends on whether the children are categorically eligible based on receipt of other benefits or must be determined eligible on the household's income. The information provided by the household on the application must be the most recent available.

Households cannot be required to submit applications for free or reduced price benefits.

B. Benefits Prior to Processing/ Processing Timeframe

Before applications are processed for the school year, the LEA can only claim and be reimbursed for free and reduced price meals or free milk served to:

- children from households with approved applications on file from the previous year;
- new children in an LEA from households with children who were approved for benefits the previous year, **except that** a child's categorical eligibility may not be extended to a sibling; and/or
- previously approved children who transfer from one school to another under the jurisdiction of the same LEA. If the applications are not centrally maintained, both the sending and the receiving school *must* maintain a copy of the child's application.

Carryover of Previous Year's Eligibility

LEAs **must** carryover the eligibility status from the previous year for any child described above. The carryover is for up to 30 operating days (beginning with the first day of school) into the current school year. This applies to direct certification, categorical eligibility determinations and income applications. However, the new eligibility determination supersedes the carryover eligibility. Local school officials are encouraged to expedite eligibility determinations for all new enrollees. In addition, LEAs must process the applications submitted for the current school year in a timely manner.

Note: SAs and LEAs **cannot** establish a shorter time frame for carryover. However, once an application is processed and approved or denied, the LEA must implement that determination in accordance with the time frames discussed in “Application Processing Timeframe.”

Children’s Eligibility and Claiming Free and Reduced Price Reimbursements

Except during the initial carry-over period, in order to be eligible for free or reduced price meals or free milk, the child must be directly certified or the household must submit a complete application and be either categorically eligible or income eligible. Further, the LEA or school must have an approved application or a list of directly certified children on file for each child served a meal or milk, which meet program requirements, that is claimed for Federal reimbursement at the free or reduced price rate.

Application Processing Timeframe

Applications must be reviewed in a timely manner. An eligibility determination must be made and implemented within 10 working days of the receipt of the application. Whenever possible, applications should be processed immediately, particularly for children who do not have approved applications on file from the previous year.

C. Determining if Submitted Applications are Complete

To be considered, an application must include the required information which depends on the basis for applying--receipt of certain benefits (categorical eligibility) or household income.

Categorical Eligibility

Food Stamp, TANF, or FDPIR Benefits

These sources of categorical eligibility may be determined based on an application submitted by a household because these programs provide distinct case numbers.

For these situations, a complete application must provide:

- the names of the children for whom the application is made;
- a Food Stamp, FDPIR or TANF case number or other FDPIR identifier for the child(ren) for whom the application is made; and
- the signature of an adult household member.

A child must be considered a member of household as established by the Food Stamp or TANF program or by FDPIR. The composition of the Food Stamp, TANF or FDPIR household may be different than that of the household applying for school meals or milk.

Other Sources of Categorical Eligibility

While children may be categorically eligible due to their migrant, homeless or runaway status or due to enrollment in Head Start/Even Start, they cannot be determined eligible based on self-declaration of such status on an application.

There is no provision for establishing eligibility for these programs based on case numbers as is permitted for the Food Stamp Program, TANF or FDPIR, even if the sponsoring agency provides case numbers.

These children must be directly certified through the school district's homeless or Migrant Education Program (MEP) liaison or other official sources. If there is an indication on the application that a child may be categorically eligible due to one of these categories, LEA officials must contact the household and then, if needed, contact the appropriate agency to confirm enrollment in that program. LEA officials must determine eligibility under these circumstances through the appropriate officials as discussed in Part 5 of this manual.

Income Eligibility

A complete application must provide:

- the names of all household members;
- the amount and source of current income by each member and the source of the income;
- the signature of an adult household member; and
- the **complete** social security number of the adult household member who signs the application or an indication that the household member does not have one.

However, if the family's current income does not reflect the income that will be available during the school year, the family should contact the LEA for assistance in completing the application. See page C. Determining Household Income in Part 4 of this manual for additional information.

When the Application Indicates Different Types of Eligibility

Because the application must provide space for identifying each child separately as a member of a Food Stamp, FDPIR or TANF household and allow for applying on the basis of income for other children, parents may apply for the children in their household under both circumstances.

Those children who are part of the Food Stamp, FDPIR or TANF household **must** be given the opportunity to apply under categorical eligibility criteria. However, to establish eligibility for those children in the household who are not categorically eligible, all household names and household income information, including the amount of any TANF assistance that is received, must also be provided on the application.

The LEA must also have a method to process different eligibility statuses that may result from these applications. While the household cannot be required to submit multiple applications, the LEA may reproduce the application to accommodate more than one eligibility statuses or may process the application separately

processing in a computer-based system.

Foster Children Eligibility

A complete application must provide:

- the name of the child;
- the child's personal income; and
- the signature of an adult household member (this may be an official of a court or other agency with responsibility for the child).

Any application that is missing required information, that contains inconsistent information, or is unclear is considered an incomplete application and cannot be processed. The LEA should make reasonable efforts to contact the household in order to obtain or clarify required information.

Reviewing Submitted Applications for Completeness

The determining official must review each incoming application to ensure that the household has submitted a complete application. If the application is complete, the official must then determine whether the household is categorically eligible or income eligible for benefits based on the information provided on the application.

A household may apply for children based on income and other children may be categorically eligible/directly certified. For children who may be income eligible for benefits, the application must include all information to establish income eligibility; all children (even categorically eligible children) must be listed on the application as members of the household with any income they may have.

The LEA must not delay approval of the application if the household fails to provide any information that is not required. For example, if the household fails to include its street address, processing of the application cannot be delayed.

D. Citizenship/Legal Status

United States citizenship or immigration status is **not** a condition of eligibility for free and reduced price benefits. LEAs must apply the same eligibility criteria for citizens and non-citizens.

The Department has determined that the NLSP, SBP and SMP are not subject to Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) which restricts certain welfare and public benefits for aliens.

E. Current Income/Conversion of Different Income Frequencies

For the purposes of certification of eligibility for free or reduced price meals or free milk, the household must provide their current income which is based on the most

recent information available. This may be for the current month, the amount projected for the first month the application is made for or for the month prior to application. If the household's current income is not a reflection of income that will be available over the school year, the household should contact the LEA for assistance. The LEA would determine the amount and frequency of income available during the school year for households.

Income Received at Different Intervals

Households may have income from different sources which are paid on different schedules. For example, the household may receive paychecks on a weekly basis and child support on a monthly basis. This section explains when conversion of income is required and how conversion is done.

- No conversion required
 - ◆ if there is only one source of income or if all sources are received in the same frequency, no conversion is required. The LEA would total all sources and compare them to the appropriate IEG. For example, if a household of 3 reported receiving a monthly Social Security check and monthly child support, those amounts would be added together and the result compared to the monthly IEG for a household of three.
- Conversion required
 - ◆ if there are multiple income sources with more than one frequency, the LEA must annualize all income by multiplying:
 - weekly income by 52;
 - bi-weekly income (received every two weeks) by 26;
 - semi-monthly income (received twice a month) by 24;
 - monthly income by 12.
 - ◆ do not round the values resulting from each conversion.
 - ◆ add all of the un-rounded converted values and compare the un-rounded total to the appropriate IEG for annual income for the household size.

LEAs **cannot** use conversion factors such as 4.33 to convert weekly income or 2.15 to convert bi-weekly income to monthly amounts. Software used must reflect this policy.

Indicating which household members have income and sources of income

Each household **must** provide the total amount of their current income. Income **must** be identified with the individual who received it, and the source of the income (wages, Social Security, etc.). Each household member who does not have income must also be identified and must have an indication of zero income on the application. Zero income may be indicated by checking a "no income" box, by writing in "zero" or "no income" or by inserting \$0.

F. Determining Eligibility

How the LEA official determines eligibility depends on the basis for potential eligibility—categorical eligibility with case numbers, categorical eligibility without case numbers or income eligibility.

Determining Eligibility for Categorical Eligibility Using Case Numbers

The determining official must assure that the Food Stamp or TANF case number or the FDPIR case number or other identifier is valid (i.e., the format is valid in that state). LEA officials need to be familiar with the format of valid case numbers/other identifiers. If there is any doubt concerning the validity of a case number/ other identifier submitted on an application, an LEA official should contact local Food Stamp, FDPIR or TANF officials. Applications with invalid case numbers or FDPIR identifiers must not be approved. However, for any child with a valid case number/other identifier, the LEA must approve that child as eligible for free benefits.

Only the case number may be used to determine eligibility; for example, the electronic benefit (EBT) card number used by the Food Stamp Program cannot be used to establish categorical eligibility.

Determining Eligibility for Categorical Eligibility without Case Numbers

LEA officials must determine eligibility under these circumstances through the appropriate officials as discussed in Part 5 of this manual. Further, if an LEA official or an official of the school district has knowledge that a child is a migrant, homeless or runaway child, that official may apply on that child's behalf in accordance with the procedures in "J. Households that Fail to Apply" in this part.

Determining Eligibility Based on Income

It is the responsibility of the determining official to compute the household's total current income and compare the total amount to the appropriate IEG:

- LEA officials must determine countable income (see Part 4 of this manual);
- households that submit a complete application indicating total household income at or below the income limits for free or reduced price benefits must be approved for free or reduced price benefits, as appropriate;
- households that submit an incomplete application cannot be approved if any *required* information is missing, the information *must* be obtained before an eligibility determination can be made;
- to get the required information, the school may return the application to the household or contact the household either by phone or in writing. The determining official should document the details of the contact, and date and initial the entry;
- applications missing the signature of an adult household member *must* be returned for signature;
- every reasonable effort should be made to obtain the missing information prior to denying the application.

Verification for Cause

The LEA has an obligation to verify all approved applications that may be questionable (verification “for cause”). See D. Verification for Cause in Part 8 in this manual for details. Such verification efforts cannot delay the approval of applications. If an application is complete and indicates that the child is eligible for free or reduced price benefits, the application must be approved. Only after the determination of eligibility has been made can the LEA begin the verification process.

G. Duration of Eligibility

Unless given a temporary approval (see next section), a child’s eligibility is in effect from the date of eligibility for the current school year and for up to 30 operating days in the subsequent school year. However, this does not apply when the initial eligibility determination was incorrect or when verification of household eligibility does not support the level of benefits for which the household was approved. In those instances, officials must make appropriate changes in eligibility.

H. Temporary Approval

Even though there is year-long eligibility, temporary approvals are very important in situations where households will be experiencing changes in income or household size that would affect children’s eligibility for free or reduced price meals or free milk. Some examples are listed below. Therefore, when warranted, LEAs are encouraged to approve households on a temporary basis when their need for assistance appears to be short-term.

For example, a temporary approval may be warranted when the household reports zero income or has a temporary reduction in income.

- the suggested time period for temporary approvals is 45 days unless otherwise stipulated by the State agency or when a shorter timeframe is more appropriate for the household’s circumstances;
- when a household reports zero income or a temporary reduction in income (such as work lay-off or recovering from a minor injury that temporarily prevents a household member from working), eligibility must be determined based on the present rate of income rather than on regular annual income;
- at the end of the temporary approval, school officials must re-evaluate the household’s situation and should contact the household to determine if the household’s circumstances have changed;
- if the household’s situation at the end of the temporary approval remains the same, the LEA may either:
 - ◆ continue eligibility on a temporary basis and re-evaluate the situation at another interval;

- make the approval valid for the duration of the current school year which would allow for carry-over of that status into the next school year.
- If the household's situation at the end of the temporary approval has changed, school officials must request that the household file a new application or have the household update the information on the existing application and initial the changes. The LEA must implement the new status within three (3) operating days. Because these are temporary approvals that expire at the end of the time period, a notice of adverse action is not required.

Eligible children should receive temporary approval in the following types of economic situations:

- zero income, for whatever reason (except foster children and institutionalized children);
- temporary layoffs;
- strikes (voluntary work stoppages);
- temporary disability.

I. Unapproved Applications

Any child who is not categorically eligible or who is in a household that does not meet the income eligibility standards cannot be approved for benefits. If there are any inconsistencies or questions concerning the required eligibility information provided, the household's application must be denied unless the inconsistencies or questions are resolved. For instance, if it is unclear whether the household provided weekly or monthly income, this issue must be resolved before an eligibility determination can be made. School officials may contact the household prior to denial, document the details of the contact, and date and initial the entry.

J. Households That Fail to Apply

Local school officials may complete an application for a child known to be eligible if the household fails to apply. When exercising this option, the school official must complete an application on behalf of the child based on the best household size and income information. The source of the information **must** be noted on the application. Names of household members, social security number, and signature of an adult household member need not be secured. These applications should be excluded from verification. However, the household must be notified that the child has been certified to receive free or reduced price benefits.

This option is intended for limited use in individual situations and must not be used to make eligibility determinations for categories or groups of children. School officials should consider providing temporary approval if circumstances warrant.

Because of delays in receiving documentation from appropriate agencies or officials, a school principal or other school official may submit an application on behalf of a child that they know to be categorically eligible due to their status as a migrant, homeless or runaway child. These applications must be done in accordance with the temporary approval procedures.

Once the documentation is received, that information must be noted on the application and the child's eligibility status is effective for the remainder of the school year and also would carry-over for up to 30 operating days in the next school year. If no documentation is received to confirm the child's status as a migrant, homeless or runaway child, the child's benefits are terminated and a new application must be filed either by a school official or by the child's parent or guardian.

K. Notification of Eligibility Determination

All households must be notified of their eligibility status.

Households with children who are denied benefits must be given written notification of the denial. The notification must advise the household of:

- the reason for the denial of benefits;
- the right to appeal;
- instructions on how to appeal; and
- a statement that the family may re-apply for free and reduced price benefits at any time during the school year.

Households with children who are approved for free or reduced price benefits may be notified in writing or orally.

L. Changes in Household Circumstances

Because of year-long duration of eligibility, households are no longer required to report changes in income or household size or changes with regard to participation in a program that makes the children categorically eligible. However, families may voluntarily report changes. If a change is reported that will increase benefits, the LEA must put that change into effect. However, if the change will decrease benefits (free to reduced price) or terminate free or reduced price benefits (free or reduced price status to paid status), the LEA must explain to the household that the change does not have to go into effect but, that the household may request that the lower benefits go into effect. If so, the household would then be provided a notice of adverse action.

M. Appeals

A household may appeal either the denial of benefits or the level of benefits for which they have been approved. When a household requests an appeal, the hearing procedures outlined in the LEA's free and reduced price policy statement must be followed.

N. Recordkeeping

LEA officials must do the following:

- for approved applications:
 - indicate the approval date;
 - indicate the level of benefit for which each child is approved;
 - sign or initial the application.
- for denied applications:
 - indicate the denial date;
 - indicate the reason for the denial;
 - indicate the date the denial notice was sent;
 - sign or initial the application.

Updating Records for Changes during the School Year

If any change, such as a transfer to another school within the LEA or if the household voluntarily requests that a change be made, is made after the initial approval for the current school year, the LEA officials must:

- note the change;
- write the date of the change on the application;
- implement the change by updating rosters or other methods used at the point of sale, if necessary.

When a child transfers to another school within the LEA, the date of the transfer must be noted on the application.

Record Retention

All free and reduced price applications, including applications from households denied benefits and inactive applications, must be kept on file for a minimum of three (3) years after the final claim is submitted for the fiscal year to which they pertain. Files must be kept longer if they are required by an audit as long as required for resolution of the issues raised by the audit. If audit findings have not been resolved, the applications must be retained as long as required for resolution of the issues raised by the audit.

Applications may be maintained either at the school or at a central location with a list of eligible children maintained at the school. If an LEA maintains applications at a central location, applications must be readily retrievable by school, and the LEA must ensure that any changes in eligibility status and transfers in and out of

the school are accurately and promptly reflected on each school's list.

O. Transferring Eligibility between LEAs

When a student transfers to another school district, the new LEA may accept the eligibility determination from the student's former LEA without incurring liability for the accuracy of the initial determination. When a copy of an application is provided, the accepting LEA should review the application for arithmetic errors and compare the income and household size to the applicable IEGs to assure that the correct level of benefits was assigned. If the accepting LEA determines that an arithmetic error occurred that the child's benefit level, the accepting LEA must notify the household that it must file an application in the new LEA in order to receive benefits. Also the accepting LEA must make changes that occur as a result of any verification activities or review findings conducted in that LEA.

P. Other Uses of Information from the Application

The information provided by families will be used only for determining eligibility for meal or milk benefits and verification of eligibility. LEAs that plan to disclose children's eligibility status for purposes other than for determining and verifying free or reduced price eligibility must inform households of this potential disclosure. Additionally, in some cases, the LEA **must** obtain parental consent prior to the disclosure. LEAs that anticipate disclosure specifically to Medicaid or the State Children's Health Insurance Program (SCHIP) must notify households of this potential disclosure and give households the opportunity to decline the disclosure. (See Part 7, Confidentiality/Disclosure, in this manual)

Q. Questions and Answers

Processing Applications

Q1 *How much judgment or discretion may the LEA exercise in determining whether a household does or does not meet the eligibility criteria for benefits?*

A Frequently questions arise concerning what is to be included as income and what constitutes a household. This manual is intended to provide guidelines for those individuals making eligibility determinations. The guidance cannot, however, address each individual situation. Determining officials will occasionally have to apply the broad concepts set forth in this guidance to some individual situations. If unusual situations unlike any examples in the guidance arise, the LEA determining official should contact the SA.

Q2 *If any item of required information is missing from the free and reduced price application, may the determining official complete the application for the household using information derived from other records available to the school?*

A No. All required information must be provided on the application and cannot be derived from another source.

Q3 *Can the determining official make an eligibility determination based upon other income sources, which were not declared on the application but about which the official knows?*

A No. The determining official must make the initial determination based upon the face value of the application. However, immediately after the application is approved, the LEA may verify that application for cause.

Q4 *A household voluntarily provided pay stubs that conflict with the income information on the application. According to the income information on the application, the household is eligible for benefits. However, from the pay stubs, it appears that the household is not eligible. What should the determining official do?*

A The submission of documentation that does not support the information provided on the application must not affect the initial eligibility determination. The determining official must approve or deny the application on face value and notify the household of the initial eligibility determination.

Under these circumstances in this question, an LEA official must take appropriate action by either:

- Sending the household a notice of approval **and** a notice of adverse action at the same time. This provides the household opportunity to resolve the discrepancy during the 10-day advance notice of adverse action; or
- Sending the household a notice of approval and a verification letter (based on verification for cause) at the same time.
- LEA officials are in the best position to determine the appropriate action to take. However, the inconsistency must be resolved expeditiously.

Q5 *A household voluntarily provided pay stubs with the application but did not write the amount of each person's income on the application. All other items were completed. According to the pay stubs, the household is eligible for benefits. What should the determining official do?*

A Rather than denying the application or returning the application to the household, the determining official should contact the household to ensure

that the household submitted information about all sources of income. The official should document the contact, enter the information on the application and initial and date the action. The application would then be processed depending on whether it was approved or denied.

Q6 *May the approval of applications be delegated to a food service management company along with other management responsibilities?*

A. An employee of the food service management company may act as an agent for the LEA in various aspects of the application, certification and verification processes. The company's employee must comply with all requirements for these processes, including limited disclosure of individual eligibility information. However, the LEA is ultimately responsible for ensuring that all requirements are being met and the information on the application remains the property of the LEA and cannot be used or possessed by the food service management company for any use other than to determine eligibility for free or reduced price meals.

Q7 *In a computerized operation, where the computer generates the determination, does the determining official have to sign or initial each application?*

A. No. The determining official may sign or initial and date a sheet of paper that would then be attached to a batch of applications. However, the computer system should be able to capture the original date of approval, the basis for the determination (i.e., what household size and income was used), and to update the status of applications to account for transfers, withdrawals, terminations, and other changes.

Q8 *A number of children from a Federally declared disaster are temporarily moved to my school district. How do I certify these children?*

A If these children are determined homeless by the school district's homeless liaison, they must be certified for free meal or free milk. Contact your State agency for assistance.

Determining if an Application is Complete

Q1 *Does an emancipated child sign his/her own applications? Is a social security number required?*

A An emancipated child who lives alone as a household of one or as a member of a household with no adult household members *must* sign his or her own application. No social security number is required for the emancipated child.

Q2 *What if the racial/ethnic data collection question is not completed?*

A Parents' provision of this information is voluntary, and failure to provide the

information *must not* affect the child's eligibility for benefits.

Q3 *If a school is providing benefits for a child during the first 30 operating days of the school year based upon income information from the previous year's eligibility, and upon receiving the current year application for the household, the school determines that there is a decrease in the child's benefits, is it necessary to provide a notice of adverse action at the end of the 30 days?*

A No, it is not necessary to provide a notice of adverse action. The LEA must, however, notify the household of the decision made on the current school year's application.

Q4 *What kind of notice is recommended for children determined to be eligible for free or reduced price meals?*

A Households must be notified of their eligibility for benefits; however, notification does not have to be in writing. LEAs may notify households of their children's eligibility for free or reduced priced benefits by letter, e-mail, or phone. LEAs may also use an automated system which assures accuracy of information and confidentiality. When an application is denied, the household must always be notified in writing.

Q5 *When foster parents apply for benefits for their own children, do they include their foster children as household members?*

A No. Since each foster child, including a preschool foster child, is a household of one, foster children are not included in the foster parents' household.

Q6 *A child and his mother are living with her sister's family because they were evicted. The child was determined homeless by our liaison and is therefore categorically eligible for free meals. Can the sister count the child and his mother in her household?*

A Yes, unless the mother and her child are not part of the same economic unit as her sister. This homeless child is always eligible for free meals even if the sister's children are ineligible or only qualify for reduced priced meals. Further, based on year long duration, the homeless child retains his/her free meal status when his/her family is no longer homeless and the sister's children also retain their eligibility status for the current school year.

Custody Situations

Q1 *Parents share the custody of their daughter and the child lives alternately with her mother and her father. Based on the mother's income, she is entitled to free meals. I understand that the child is entitled to free meals even when she is with her father. My question is—can the father include her as a household member in his household?*

A Yes. Since the daughter is part of each parent's economic unit while she is in residence at the respective households, both parents may include her as a household member.

Q2 *In a split custody situation, a child is eligible for free meals based on the application submitted by his mother. However, his father told us he doesn't want his son to get free meals while he is with him. Can I still claim the boy's meals at the free rate?*

A No, when the child is residing with his father and the father pays for the meals, you cannot claim that child's meal at the free rate.

Accepting Benefits

Q1 *What if a child is eligible for free meals, but the household wants to pay the reduced price?*

A The school should respect the family's wishes and allow the child to pay the reduced price charge. The application should correctly reflect that the child is eligible for free meals. However, the school should note on the application that the family has elected to pay the reduced price charge. The meals served to such a child must be claimed for reduced price reimbursement since the school received the reduced price payment from the household.

Part 4: Income Eligibility

Section Contents

- A. General
- B. Determining Household Composition
 - Special Situations
- C. Determining Household Income
 - Reportable Income
 - Current Income
 - Special Situations
 - Income Exclusions
- D. Questions and Answers

Income Eligibility

A. General

To determine if a household meets income eligibility requirements for benefits, LEA officials must compare the household size and the total household income to IEGs. Officials may be asked by households for guidance on whom to include as a household member or what to include as income on the application for benefits. Although LEA officials may have to use their own discretion in some instances, this section explains the requirements for determining household composition and income and also provides guidance on how to handle special situations.

B. Determining Household Composition

Household composition for the purpose of making an eligibility determination for free and reduced priced benefits is based on economic units. An economic unit is a group of related or unrelated individuals who are not residents of an institution or boarding house but who are living as one economic unit, and who share housing and/or significant income and expenses of its members. Generally, individuals residing in the same house are an economic unit. However, more than one economic unit may reside together in the same house. Separate economic units in the same house are characterized by prorating expenses and economic independence from one another.

Special Situations

Adopted Child - An adopted child for whom a household has accepted legal responsibility is considered to be a member of that household. If the adoption is a “subsidized” adoption, which may include children with special needs, the subsidy is included in the total household income. (See the Questions and Answers at the end of this part.)

Because some adopted children were first placed in families as foster children, parents may not be aware that, once the child is adopted, s/he must be determined eligible based on the economic unit and all income available to that household, including any adoption assistance, is counted when making an eligibility determination.

Child Attending an Institution - A child who attends but does not reside in an institution is considered a member of the household in which she/he resides.

Child Residing in an Institution – A child residing in an RCCI participating in the NSLP and/or the SBP or in the SMP is considered a household of one.

Child Away at School - A child who is temporarily away at school (e.g., attending boarding school or college) is included as a member of the household.

Child Living with One Parent, Relative, or Friends - In cases where no specific welfare agency or court is legally responsible for the child or where the child is living with one parent, other relatives, or friends of the family, the child is considered to be a member of the household with whom she/he resides. Children of divorced or separated parents are generally part of the household that has custody.

Joint Custody – When joint custody has been awarded and the child physically changes residence, the child is considered part of the household where she/he resides. In these situations, if both parents apply for benefits in the same LEA for the child, and different eligibility statuses result, the greatest benefit level is used. For example, if the mother’s situation results in eligibility for free meals but the father’s application is denied, the child would receive free meals regardless of which parent had custody at the time.

Emancipated Child - A child living alone or as a separate economic unit is considered to be a household of one.

Foreign Exchange Student - A foreign exchange student is considered to be a member of the household in which she/he resides, i.e., the household hosting the student.

Foster Child - A foster child is a child who is living with a household but who remains the legal responsibility of the welfare agency or court. Such a child is considered a household of one.

Family Members Living Apart - Family members living apart on a temporary basis are considered household members. Family members not living with the household for an extended period of time are not considered members of the household for purposes of determining eligibility, but any money made available by them or on their behalf for the household is included as income to the household.

Deployed service personnel - While family members not living with the household for an extended period of time are not usually considered household members, any member of the armed services who is activated or deployed in support of any military combat operation is still counted as a household member.

C. Determining Household Income

Reportable Income

Income is any money received on a recurring basis, including **gross** earned income, unless specifically excluded by statute. Gross earned income means all money earned before such deductions as income taxes, employee's social security taxes, insurance premiums, and bonds. Income includes but is not limited to:

- earnings from work
 - wages, salaries, tips, commissions;
 - net income from self-owned business and farms;
 - strike benefits, unemployment compensation, and worker's compensation.
- welfare/child support/alimony
 - public assistance payments/welfare benefits (TANF, General Assistance, General Relief, etc.);
 - alimony or child support payments.

Note: Food Stamps and FDPIR benefits are **not** counted as income.

- retirement/disability benefits
 - Pensions, retirement income, veterans' benefits;
 - social security;
 - supplemental security income;
 - disability benefits.
- any other income
 - Net rental income, annuities, net royalties;
 - interest; dividend income;
 - cash withdrawn from savings; income from estates, trusts and/or investments;
 - regular contributions from persons not living in the household;
 - any other money that may be available to pay for the child(ren)'s meals.

Current Income

Households must report current income on a free and reduced price application. Current income means income received by the household for the current month, the amount projected for the first month the application is made for or the month prior to application. If this income is higher or lower than usual and does not fairly or accurately represent the household's actual circumstances, the household may, in conjunction with LEA officials, project its annual rate of income based on the guidelines on Special Situations.

Special Situations

Projected Income for Seasonal Workers and Others - Seasonal workers and others whose income fluctuates usually earn more money in some months than in other months. Consequently, the previous month's income may distort the household's actual circumstances. In these situations, the household may project its annual rate of income and report this amount as its current income. If the prior year's income provides an accurate reflection of the household's current annual rate of income, the prior year may be used as a basis for the projected annual rate of income.

Income for the Self-Employed - Self-employed persons may use last year's income as a basis to project their current year's net income, unless their current net income provides a more accurate measure. Self-employed persons are credited with net income rather than gross income. Net income for self-employment is determined by subtracting business expenses from gross receipts.

- gross receipts include the total income from goods sold or services rendered by the business;
- deductible business expenses include the cost of goods purchased, rent, utilities, depreciation charges, wages and salaries paid, and business taxes (not personal, Federal, State, or local income taxes).
- non-deductible business expenses include the value of salable merchandise used by the proprietors of retail businesses;
- net income for self-employed farmers is figured by subtracting the farmer's operating expenses from the gross receipts;
- gross receipts include the value of all products sold; money received from the rental of farm land, buildings, or equipment to others; and incidental receipts from the sale of items such as wood, sand, or gravel;
- operating expenses include cost of feed, fertilizer, seed, and other farming supplies; cash wages paid to farmhands; depreciation charges; cash rent; interest on farm mortgages; farm building repairs; and farm taxes (but not local, State, and Federal income taxes).

Income from Wages and Self-Employment - For a household with income from wages and self-employment, each amount *must* be listed separately. When there is a business loss, income from wages may not be reduced by the amount of the business loss. If income from self-employment is negative, it should be listed as zero income.

Military Benefits- Benefits received in cash, such as housing allowances and food or clothing allowances, are considered income.

Deployed service members -Only that portion of a deployed service member's income made available by them or on their behalf to the household will be counted as income to the household.

Foster Child's Income - Only the child's personal income is considered for eligibility purposes.

Income for a Child Residing in an RCCI - Only the income a child earns from full-

time or regular part-time employment and/or personally receives while in residence at the RCCI as income.

Child's Income - The earnings of a child who is a full-time or regular part-time employee must be listed on the application as income.

Alimony and Child Support

- Any money **received** by a household in the form of alimony or child support is considered as income to the receiving household.

- Any money paid by a household in the form of alimony or child support is not excluded from income for that household.

Garnished Wages and Bankruptcy - Income is the gross income received by a household before deductions. In the case of garnished wages and income ordered to be used in a specified manner, the total gross income *must* be considered regardless of whatever portions are garnished or used to pay creditors.

Income Exclusions

General

Income not to be reported or counted as income in the determination of a household's eligibility for free and reduced price benefits includes:

- any cash income or value of benefits excluded by statute (see Question and Answer 2 in this part for statutory exclusions); common exclusions are the value of food stamps or FDPIR benefits and some Federal educational benefits;
- Payments received for the care of foster children;
- student financial assistance provided for the costs of attendance at an educational institution, such as grants and scholarships, awarded to meet educational expenses and not available to pay for meals;
- loans, such as bank loans, since these funds are only temporarily available and must be repaid;
- the value of in-kind compensation, such as housing for clergy and similar non-cash benefits;
- occasional earnings received on an irregular basis, e.g., not recurring, such as payment for occasional baby-sitting or mowing lawns.

Military Benefits

An in-kind benefit, such as non-privatized on-base housing, where no cash is provided to the household receives.

Other sources of excluded income related to the military:

- Family Subsistence Supplemental Allowance (FSSA) - By law, the FSSA is not counted as income in determining eligibility for free and reduced price meals;
- Privatized housing allowances received under the Military Housing Privatization Initiative are not counted as income. Under this privatization initiative, a housing allowance appears on the leave and earnings

statement of service members living in privatized housing. The exclusion only applies to service members living in housing covered under the Military Housing Privatization Initiative. Housing allowances for households living off-base in the general commercial/private real estate market are counted as income. Additional information about DOD's Military Housing Privatization Initiative, including a list of affected installations, may be accessed at: www.acq.osd.mil/housing.

Institutionalized Child's Income - Payments from any source directly received by the RCCI on a child's behalf are not considered as income to the child.

Child's Income – Infrequent earnings, such as income from occasional baby-sitting or mowing lawns, are not counted as income and should not be listed on the application.

Lump Sum Payments - Lump sum payments or large cash settlements are not counted as income since they are not received on a regular basis. These funds may be provided as compensation for a loss that must be replaced, such as payment from an insurance company for fire damage to a house. However, when lump sum payments are put into a savings account and the household regularly draws from that account for living expenses, the amount withdrawn is counted as income.

D. Questions and Answers

Q1 *Why is the housing allowance provided to service personnel counted as income when the value of provided housing is not?*

A Income is defined as all cash received on a recurring basis. In-kind benefits, by definition, are not cash payments, and, therefore, are not considered as income for the purpose of determining free and reduced price eligibility. School officials are not in a position to determine the value of in-kind benefits, such as housing for clergy, cars for salespersons, employee medical or dental benefits, etc. The income exclusion for in-kind benefits is uniform throughout the school meal programs. To treat in-kind benefits provided to military households differently from in-kind benefits provided to the general population would create an inequity. The fact that the value of military on base housing is more readily identifiable than other sources of in-kind benefits would not lessen the inequity.

Q2 *What payments from Federal programs are excluded from consideration as income by legislative prohibition?*

A The following payments are excluded as income:

- the value of assistance to children and their families under the National School Lunch Act, the Child Nutrition Act of 1966, and the Food Stamp Act of 1977;

- reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- any payment to volunteers under Title I (VISTA and others) and Title II (RSVP, foster grandparents, and others) of the Domestic Volunteer Service Act of 1973 to the extent excluded by that Act;
- payments to volunteers under section 8(b)(1)(B) of the Small Business Act (SCORE and ACE);
- National Flood Insurance Program (NFIP) payments—payments received by property owners under the NFIP;
- income derived from certain sub-marginal land of the U.S. that is held in trust for certain Indian tribes;
- student financial assistance received under Title IV of the Higher Education Act of 1965, including the Pell Grant, Supplemental Education Opportunity Grant, State Student Incentive Grants, National Direct Student Loan, PLUS, College Work Study, and Byrd Honor Scholarship Programs, to the extent excluded by that Act;
- payments under the Agent Orange Compensation Exclusion Act (Public Law 101-201);
- payments under the Child Care and Development Block Grant (Public Law 102-508); (15) payments and allowances to individuals participating in AmeriCorps to the extent excluded by the National and Community Service Act of 1990;
- payments under the Low-income Home Energy Assistance Act (Public Law 99-125); payments under the Disaster Relief Act of 1974, as amended by the Disaster Relief and Emergency Assistance Amendments of 1989 (Public Law 100-707);
- payments received under the Carl D. Perkins Vocational Education Act, as amended by the Carl D. Perkins Vocational and Applied Technology Act Amendments of 1990 (Public Law 101-392);
- value of any child care payments made under section 402(g)(1)(E) of the Social Security Act;
- value of any “at-risk” block grant child care payments made under section 5081 of Public Law 101-508, which amended section 402(i) of the Social Security Act;
- value of any child care provided or paid for under the Child Care and Development Block Grant Act, as amended (Public Law 102-586, Sec. 8(b));
- payments received under the Old Age Assistance Claims Settlement Act, except for per capita shares in excess of \$2,000;
- payments received under the Cranston-Gonzales National Affordable Housing Act (Public Law 101-625);
- payments received under the Housing and Community Development Act of 1987.

This list is NOT inclusive. Legislation is periodically enacted that excludes income for the purposes of the school meals/milk programs. Here is a link to the list of income excluded by Federal law that is maintained by the Supplemental Security Income Program:

http://www.ssa.gov/OP_Home/cfr20/416/416-ap01.htm. This website may

assist you in determining if benefits from other programs are excluded as income from Federal means-tested programs. Determining officials should always contact the State agency when there is question of whether specific payments are to be included as income. The household always has the right to provide documentation or to request a determination about a source of income that may be excluded for the purposes of the school meals/milk programs.

Q3 *If one household owns a housing unit and rents living space to another household, must the household receiving the rental fee report this amount as income?*

A Yes. Income includes money derived from rent of room(s), apartment(s), etc. If a household receives rental income from another household, it *must* be included as income. The treatment of rental income would be similar to the treatment of self-employment income.

Q4 *Are children for whom households receive adoption assistance payments under Title IV-E of the Social Security Act automatically eligible for free school meals?*

A No. Although Sections 673 and 674 of the Social Security Act specify that, for purposes of Titles XIX (medical assistance) and XX (child care), children whose parents receive adoption payments shall be deemed to be recipients of the Aid to Families with Dependent Children program (now TANF), the statute did not extend this TANF equivalency to the NSLP, SBP, or SMP. Additionally, since there is no legislative prohibition from considering the adoption assistance payments as income, the amount of assistance *must* be included as household income in the free and reduced price meal eligibility determination.

Q5 *If a child lives with his/her parents and is required to pay for room and board, is the child a separate household?*

A The child is considered to be a separate household only in those cases where the child is living alone or as a separate economic unit. Separate economic units are usually characterized by the prorating of most household expenses. Most children paying room and board are usually paying a token amount and are not economically independent of their parents and are therefore not considered to be emancipated.

Q6 *If two separate households rent living space (e.g., an apartment or house), and one household gives its portion of the rent to the other household which, in turn, transmits the full rent to the landlord, does the rental income given to the transmitting household count as rental income?*

A No. The transmitting household has not received income; rather it is performing a simple financial transaction that does not provide it with additional income.

Part 5: Categorical Eligibility

Section Contents

- A. Members of Food Stamp/FDPIR/TANF Households
- B. Head Start/Even Start
- C. Migrant Education Program (MEP)
 - MEP Contacts
 - Documentation of MEP Enrollment
- D. Runaway and Homeless Youth Act (RHYA)
 - Documentation of Runaways RHYA Participation
- E. McKinney-Vento Homeless Assistance Act
 - Documenting Free Meal Eligibility for Homeless Children
 - Residing with Another Household
- F. Duration of Categorical Eligibility
- G. Questions and Answers

Part 5: Categorical Eligibility

Categorical eligibility is determined on an individual basis. A child's receipt of benefits, such as TANF, or participation in a program, such as Head Start, cannot be used to certify other children in the same household who are not considered as members of that program's assistance unit or who are not participants in that program.

A. Members of Food Stamp/FDPIR/TANF Households

A child who is a member of household receiving assistance from the Food Stamp Program, FDPIR or TANF is categorically eligible for free benefits. LEAs must give households applying for free and reduced price meals for their children the opportunity to indicate on the application that the children are categorically eligible for free benefits and to provide case numbers.

If a household submits an application for children who were directly certified, the LEA must disregard the paper application. Direct certification takes precedent over an application submitted by the household.

NOTE: Categorical eligibility is not extended to children receiving assistance from the State's Medicaid Program.

B. Head Start/Even Start

Head Start Enrollees

Children enrolled in Federally-funded Head Start centers that meet the low-income criteria of the Head Start Program are considered categorically eligible for free meals in the NSLP. Children enrolled in State funded pre-kindergarten Head Start programs with eligibility requirements identical to or more stringent than those used by the Federally-funded Head Start centers are also considered categorically eligible.

Even Start Enrollees

For a child to be categorically eligible for free meals based on their participation in Even Start, the child must be enrolled as a participant in a Federally-funded Even Start Family Literacy Program and must be at the pre-kindergarten level.

Documentation of Head Start or Even Start Participation

Documentation of a child's participation in a Federally-funded Head Start or Even Start is required to establish categorical eligibility for free meals in the NSLP or SBP, or for free milk in the SMP. Confirmation that the child has not yet entered kindergarten must be included in the documentation from the Even Start official.

Acceptable documentation includes:

- an approved Head Start or Even Start application for the child's family or statement of enrollment in Head Start or Even Start; or
- a list of children participating in Head Start or Even Start; and
- in the case of Even Start, confirmation that the child has not yet entered kindergarten.

C. Migrant Education Program

A child is considered categorically eligible if she/he is identified as meeting the definition of migrant in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399) by the State or local Migrant Education Program (MEP) coordinator or the local educational liaison.

The basic definition of a migrant child for MEP is that the child has moved across school district lines, within the last three years, in order to accompany or join a parent or guardian who has moved to seek or obtain temporary or seasonal work in agriculture or fishing. **It is not necessary for LEA officials to make the determination about whether a child is considered as a migrant for MEP.** State educational agencies and local MEP staff are responsible for identifying (and maintaining supporting documentation) as to who is an eligible migrant child.

MEP Contacts

Most State educational agencies sub-grant MEP funds to local operating agencies (LOAs) to provide program services. These operating agencies are typically school districts; however, in some States, the LOAs may be regional units that administer the MEP in multiple school districts. When a LOA or school district receives MEP funds, a MEP coordinator is usually designated. This may be a Federal program director administers multiple Federal programs including the MEP). The operating agency or school district identifies and recruits migrant children in their geographic area and maintains a list of eligible migrant children.

If the LEA or SA becomes aware of other officials who may be administering the MEP in their State, they should contact the SA or regional office, as appropriate, for guidance.

Documentation of MEP Enrollment

LEAs should work directly with their LOA or school district's MEP coordinator or, where appropriate, the State MEP director, to identify migrant children and to document their eligibility for free school meals. LEAs must accept documentation that the children are migrant children from the LOA or school district's MEP coordinator.

Acceptable documentation for MEP enrollment is:

- a dated list with each child's name
- the signature of the MEP coordinator or the State MEP director.

This documentation is in lieu of free and reduced price meal applications and must be sought, as much as possible, prior to a household completing an application. Once documentation is obtained, the LEA must notify the household as soon as possible about the child's free meal eligibility. Because documentation of MEP enrollment is acceptable in lieu of a free and reduced price meal application, any application submitted on behalf of the child would be disregarded.

It is particularly important that newly arrived migrant children in the LEA be documented and certified for free meals as promptly as possible. LEAs need to establish procedures with the MEP coordinator to assure prompt notification when a new migrant child is identified.

Transferring Information

To assure that an eligible migrant child continues to receive benefits, LEAs are encouraged to share the child's free meal eligibility status with the new LEA when a migrant child moves from their jurisdiction if the family knows their new location. See O. Transferring Eligibility between LEAs, in Part 3 of this manual for additional information.

D. Runaway and Homeless Youth Act

A runaway child is one who is identified as a runaway receiving assistance through a program under the Runaway and Homeless Youth Act (RYHA) by the local educational liaison. If the LEA or SA becomes aware of other officials who may be administering the RHYA in their State, they should contact the SA or regional office, as appropriate, for guidance.

These programs for runaways are established by the Family and Youth Services Bureau (FYSB) of the U.S. Department of Health and Human Services. Because the FYSB coordinates with school district homeless liaisons, LEA officials should be able to obtain documentation of a child's participating in a RHYA-funded program.

The following is a website that may assist LEAs in obtaining more information about the operations of the RHYA programs in their State: www.acf.dhhs.gov/programs/oro/. For further information on FYSB, see their web site at: www.acf.hhs.gov/programs/fysb/index.html.

Documentation of Runaways' RHYA Participation

Acceptable documentation to substantiate participation in a program for runaway children sponsored by RHYA must include:

- the child's name or a list of names of participating children;
- the effective date(s); and
- the signature of the school district's homeless liaison

Because documentation of enrollment in an RHYA-funded program is acceptable in lieu of a free and reduced price meal application, any application submitted on

behalf of the child would be disregarded.

It is particularly important that runaway children who may be enrolled in an RHYA-funded program be documented and certified for free meals as promptly as possible. Therefore, LEAs need to establish procedures with the homeless coordinator.

E. McKinney-Vento Homeless Assistance Act

A child is considered homeless if she/he is identified as lacking a fixed, regular and adequate nighttime residence under the McKinney-Vento Homeless Assistance Act by the local educational agency liaison, or the director of a homeless shelter. If the LEA or SA becomes aware of other officials who may be administering the McKinney-Vento Act in their State, they should contact the SA or regional office, as appropriate, for guidance.

The term “homeless” means individuals who lack a fixed, regular, and adequate nighttime residence. The definition includes:

- children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations;
- are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
- children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- migratory children who qualify as homeless because the children are living in the circumstances described above.

This list is provided to assist LEA officials who may know a child’s circumstances that may qualify them as homeless. However, as discussed below, the determination of whether a child meets the definition is made by the school district’s homeless liaison.

Documenting Free Meal Eligibility for Homeless Children

Acceptable documentation that the children are homeless is obtained from the local educational homeless liaison or directors of homeless shelters where the children reside. Documentation to substantiate free meal eligibility must consist of the child’s name or a list of names, effective date(s), and the signature of the local educational liaison or the director of the homeless shelter.

Homeless Children Residing With Another Household

A child or family may temporarily reside with another household and still be considered homeless under the definition of homeless in McKinney-Vento. In these cases the household size and income of the host family is not taken into consideration in determining the free meal eligibility for the child(ren) designated as homeless by the local educational agency liaison.

When a host family applies for free and reduced price meals for their own children, the host family may include the homeless family as household members if the host family provides financial support to the homeless family, such as shelter, utilities, clothing or food. In such cases, the host family must also include any income received by the homeless family. School officials must determine eligibility for the host family in the traditional manner. However, free meal eligibility for the homeless child is based on the documentation provided by the local education liaison, even when the child is included on the host family's free and reduced price meal application.

F. Duration of Categorical Eligibility

Because households are not required to report changes in income or household size during the school year, the household is not required to report a change in their categorical eligibility status because they no longer receive benefits or participate in the programs discussed above. For households that voluntarily report changes, see L. Changes in Household Circumstances in Part 3 of this manual.

G. Questions and Answers

Q1. *A child who has been certified homeless by the liaison person earlier this year returns home. The child remains categorically eligible based on having been determined categorically eligible earlier in the year—but he was with a host family, that family could apply for meal benefits, and had the option of including the homeless person(s) on their application. Now that the child is back home, can his “home” family apply for free or reduced price benefits and include him as a household member?*

- A.** There are several points that need to be addressed in responding to this question.
- The homeless child's eligibility status cannot “convey” to the other children in either the host or “home” family. However, the homeless child is counted as a household member in the other households.
 - The homeless child remains eligible for free meals for the current school year (and up to 30 days in the next) regardless of where he is living.
 - The host family gets to include the child if they apply for benefits while

the child is living with them and if he moves out, there is no change in eligibility status for the remaining children because of year-long eligibility.

- When the child returns to his “home” family, he is counted as a household member if his family applies for benefits for the other children in the household. By the same token, if the homeless child leaves the family which has an approved application on file, the status of the remaining children doesn’t change unless something happens that would improve their status.

Q2. *May a private school serve free meals to homeless students using documentation provided by a public school homeless liaison or the State Coordinator for Education of Homeless Children and Youth?*

- A.** Even though the McKinney-Vento Homeless Assistance Act only applies to public schools, public school liaisons or the State Coordinator for Education of Homeless Children and Youth may share documentation with a private school and the private school may use this information to support serving of free meals to this population. Private schools may also use documentation obtained from shelter directors for this purpose. While there is no policy requiring private schools to establish a homeless /runaway liaison, they are encouraged to do so for school meal program purposes.

Part 6: Direct Certification with the Food Stamp Program, TANF and FDPIR

Section Contents

- A. Definitions
- B. Mandatory Direct Certification with the Food Stamp Program
- C. Direct Certification with TANF and FDPIR
- D. Methods for Direct Certification for the Food Stamp Program, TANF and FDPIR
- E. Required Documentation for Direct Certification for the Food Stamp Program, TANF and FDPIR
- F. Notification to Households about Eligibility Established through Direct Certification
 - Age of Documentation
- G. Delivery of Benefits
- H. Expiration of Categorical Eligibility
- I. Recordkeeping

Part 6: Direct Certification with the Food Stamp Program, TANF or FDPIR

A. Definitions

Direct certification is the process under which LEAs certify children who are members of households receiving assistance under the Food Stamp Program, TANF or FDPIR as eligible for free school meals, without further application, based on information provided by the State/local agency administering those programs.

This section only discusses direct certification for these programs. Other categorically eligible children, such as homeless children identified by the school district's homeless liaison, may be processed using procedures similar to direct certification. Those procedures are found in Part 5 of this manual.

B. Mandatory Direct Certification with the Food Stamp Program

By law, all LEAs must be directly certifying children from food stamp households in accordance with the following schedule:

- By School Year 2007-2008, all school districts with enrollments of 10,000 students or more in the preceding year must be conducting direct certification.
- By School Year 2008-2009 and all subsequent school years, all school districts, regardless of size, must be conducting direct certification.

C. Direct Certification with TANF and FDPIR

Although not required, LEAs are encouraged to conduct direct certification with the TANF program and FDPIR. The procedures for mandatory and voluntary direct certification are the same.

The Medicaid Program cannot be used as a source for direct certification.

D. Methods for Direct Certification for the Food Stamp Program, TANF and FDPIR

Direct certification can be accomplished in different ways including:

- the LEA identifies children eligible for free meals or milk through a computer match with Food Stamp, TANF or FDPIR information or through paper-based exchange of information.
- the household receives a letter from the Food Stamp, TANF or FDPIR office notifying them of their eligibility to receive free meals or milk. The household presents the letter to the school to establish eligibility for free meals or milk; or

Since children's eligibility for free meals or free milk is based on documentation obtained from Food Stamp, FDPIR or TANF officials, verification of eligibility is not required for children who have been directly certified.

E. Required Documentation for Direct Certification for the Food Stamp Program, TANF and FDPIR

Documentation to establish children's eligibility for free meals under direct certification for these programs, and to substantiate claims for reimbursement, *must* include:

- names of children currently certified to receive Food Stamps/FDPIR/TANF;
- a statement certifying that each child is a member of a Food Stamp, FDPIR or TANF household;
- at least one piece of identifying information that will match each child with a child attending a particular school. Examples of identifiers include:
 - ◆ children's birth dates;
 - ◆ addresses;
 - ◆ parents' names;
 - ◆ social security numbers; or
 - ◆ other identifiers;
- the date; and
- the signature of a Food Stamp, TANF or FDPIR official.

In cases of form letters to households or direct computer matches which may not include the official's original signature, sufficient documentation must include correspondence or a written agreement between the Food Stamp, TANF or FDPIR office and the LEA setting out or confirming the manner in which LEA officials would be provided the children's Food Stamp, TANF or FDPIR status.

The documentation *must* be retrievable by school to ensure proper delivery of

benefits and to allow substantiation of the number of children eligible for free meals or milk.

F. Notification to Households about Eligibility Established through Direct Certification

The LEA must notify the household that:

- child is eligible for free benefits;
- no further application is necessary; and
- how to notify the LEA if it does not want free benefits for directly certified children. (This information may be included in the notice the Food Stamp, TANF or FDPIR office provides the household to present to the school.)

LEAs must ensure that families receive **either** a direct certification notification or an application for free and reduced price school meals. LEAs that distribute the application materials through the mail, individual student packets, or other method that prevents the overt identification of children eligible for direct certification are not required to distribute application materials to families in which all children were determined eligible through the direct certification process.

Age of Documentation

LEA officials must obtain from Food Stamp, TANF or FDPIR officials, documentation based on the most current certification information available and as close to the beginning of the children's school year as possible. If possible, data should be no older than four calendar weeks prior to the start of each LEA's school year. This would be consistent with the timeframe for distributing applications.

G. Delivery of Benefits

The LEA must provide benefits promptly. Eligible children may receive benefits immediately and the LEA may assume consent if refusal has not been received within a certain number of days, as determined by the LEA.

If the household refuses benefits, the LEA must discontinue benefits immediately and must document the refusal.

H. Expiration of Categorical Eligibility

Because of year-long duration of eligibility, households are no longer required to report changes in their categorical eligibility status. However, households may voluntarily report a change. If a household reports a change that may reduce or terminate benefits, the LEA must explain to the household that the change does not have to go into effect but, that at the household's request the change will go into effect. If the household wants the change to go into effect, the LEA must

provide a notice of adverse action.

I. Recordkeeping

LEAs must keep documentation for direct certification on file for a minimum of three (3) years after submission of the final claim for reimbursement for the fiscal year to which they apply. Documentation must be kept longer if they are required by an audit as long as required for resolution of the issues raised by the audit. If audit findings have not been resolved, the applications must be retained as long as required for resolution of the issues raised by the audit. If audit findings have not been resolved, the documentation must be maintained as long as required for resolution of the issues raised by the audit.

Documentation may be maintained either at the school or at a central location with a list of eligible children maintained at the school. If an LEA maintains documentation at a central location, children's categorical eligibility status must be readily retrievable by school, and the LEA must ensure that any changes and transfers in and out of the school are accurately and promptly reflected on each school's list.

Part 7: Confidentiality/Disclosure

Section Contents

- A. General
- B. Aggregate Information
- C. Disclosure Chart
- D. “Need to Know”
- E. National Assessment of Educational Progress (NAEP)
- F. No Child Left Behind (NCLB)
- G. Family Educational Rights and Privacy Act (FERPA)
- H. Parental Notification for Disclosure
- I. Agreements/Memoranda of Understanding
 - Non-Medicaid/SCHIP Agencies
 - Medicaid/SCHIP Agencies
- J. Other Disclosures that Require Parental Consent
- K. Consent Statement Requirements
- L. Social Security numbers
- M. Penalties for Improper Disclosure
- N. Questions and Answers

Part 7

Confidentiality/Disclosure of Eligibility Information

A. General

The issues of privacy and confidentiality of personal data are complicated as well as sensitive. Before developing State and local disclosure policies, SAs and LEAs should discuss the issue with their legal counsel.

LEAs may disclose children's free and reduced price meal eligibility information to programs, activities and individuals that are specifically authorized access under the NSLA which is the law that sets forth the disclosure limits for the Child Nutrition Programs. Disclosure is always an option, not a requirement.

The agency responsible for making the free and reduced price meal or free milk eligibility determination makes the decision on whether or not children's information will be disclosed. This will be the LEA or the school administration. The LEA may opt to disclose children's eligibility information to Medicaid or State Children's Health Insurance Program (SCHIP) officials if the SA has not prohibited such disclosure to these health insurance programs and the family does not decline to have their children's eligibility information released.

B. Aggregate Information

The LEA may disclose aggregate information to any program or individual when children cannot be identified through release of the aggregate data or by means of deduction. An example of aggregate data is the number of children eligible for free or reduced price meals in school district. As aggregate data does not identify individual children, parental notification and parental consent are not needed. However, LEAs are cautioned about release of aggregate data when individual children's eligibility may be deduced such as release of data about a specific classroom or subset when the numbers of eligible children is very small.

C. Disclosure Chart

The NSLA specifies that persons directly connected with the administration or enforcement of certain programs or activities are permitted to have access to children's eligibility information. The following chart shows the circumstances for disclosing eligibility information. If you have concerns or questions about disclosing children's eligibility information, contact your SA for further guidance.

Recipient of Information	Information that May be Disclosed	Required Notification and Consent
<i>Programs</i> under the National School Lunch Act or Child Nutrition Act	All eligibility information	Prior notice and consent not required
<i>Federal/State or local means tested nutrition programs</i> with eligibility standards comparable to the NSLP	Eligibility status only	Prior notice and consent not required
<i>Federal education programs</i>	Eligibility status only	Prior notice and consent not required
<i>State education programs</i> administered by a State agency or local education agency	Eligibility status only	Prior notice and consent not required
<i>Local education programs</i>	NO eligibility information, unless parental consent is obtained	Must obtain parental consent
<i>Medicaid or the State children's health insurance programs (SCHIP)</i> , administered by a State or local agency authorized under titles XIX or XXI of the Social Security Act to identify and enroll eligible children	All eligibility information, unless parents elect not to have information disclosed	Must give prior notice to parents and opportunity for parents to decline to have their information disclosed
<i>State health programs</i> other than Medicaid/SCHIP, administered by a State agency or local education agency	Eligibility status only	Prior consent not required
<i>Federal health programs</i> other than Medicaid/SCHIP	NO eligibility information, unless parental consent is obtained	Must obtain parental consent
<i>Local health program</i>	NO eligibility information, unless parental consent is obtained	Must obtain parental consent
<i>Comptroller General</i> of the United States for purposes of audit and examination	All eligibility information	Prior notice and consent not required
<i>Federal, State or local law enforcement officials</i> investigating alleged violations of any of the programs under the NSLA and CNA or investigating violations of any of the programs that are authorized to have access to names and eligibility status	All eligibility information	Prior notice and consent not required

See Appendix D for a chart showing grouping by what information may be released.

D. “Need to Know”

Although a program or person may be authorized under the NSLA to receive free and reduced price eligibility information, there *must* be a legitimate need to know to provide a service or carry out an authorized activity.

State Medicaid and SCHIP agencies and health insurance program operators receiving children’s free and reduced price meal or free milk eligibility information *must* use that information to enroll eligible children in State Medicaid or SCHIP. The State Medicaid or SCHIP enrollment process may include seeking to identify and identifying children from low income households, who are potentially eligible for State Medicaid or SCHIP for the purpose of enrolling them in State Medicaid or SCHIP.

E. National Assessment of Educational Progress (NAEP)

LEAs may disclose, without parent/guardian consent, children’s names and eligibility status to persons who are directly connected to the administration or enforcement of NAEP because NAEP is a Federal education program. Additionally, LEAs may disclose children’s names and eligibility status to persons directly connected with the administration or enforcement of State educational assessment programs to the extent that the State assessment is part of the NAEP or the assessment program is established at the State, not local level. Other State education programs also are eligible to have access to participants' names and eligibility status, without parent/guardian consent, but the program must be established at the State, not local level.

The term “persons directly connected” for the purpose of disclosure to NAEP includes Federal, State and local program operators responsible for NAEP program administration or program compliance and their contractors. This does not imply that these persons have routine access to participants' eligibility status. There must be a "need to know" for legitimate NAEP purposes.

LEAs are encouraged to inform households when they plan to disclose or use eligibility information outside the originating program and to have a written agreement with NAEP officials (see I. Agreements/Memoranda of Understanding in this part).

F. No Child Left Behind (NCLB)

Because NCLB is a Federal education program, LEA officials may disclose a child’s eligibility status to persons directly connected with, and who have a need

to know, a child's free and reduced price meal eligibility status in order to administer and enforce the NCLB requirements. However, other information obtained from the free and reduced price school meal application or obtained through direct certification cannot be disclosed. LEA officials must keep in mind that the intent of the confidentiality provisions is to limit the disclosure of a child's eligibility status to those who have a "need to know" for proper administration and enforcement of a Federal education program. LEAs must establish procedures that limit access to a child's eligibility status to as few individuals as possible.

LEA officials, prior to their disclosing information on the eligibility of individual children, should enter into a memorandum of understanding or other agreement to which all involved parties (including both officials who administer the school meals/milk programs and officials who administer the overall education functions) would adhere. This agreement would specify the names of the individuals who would have access to the information, how the information would be used in implementing NCLB and how the information will be protected from unauthorized uses and third-party disclosures, and should include a statement of the penalties for misuse of the information.

G. Family Educational Rights and Privacy Act (FERPA)

Federal Department of Education has established that education records are under the purview of FERPA. However, for the school meals programs and milk program, the restrictions imposed by the laws governing these programs, not FERPA, apply.

H. Parental Notification for Disclosure

Unless otherwise indicated, LEAs must inform households if they plan to disclose or use eligibility information outside the originating program, i.e., lunch, breakfast or milk program. This may be done as either a general notification of potential disclosure or a specific notification to disclose information to a particular program.

Notice Requirements

The notice of potential disclosure or specific disclosure may be in the letter to households that accompanies the free and reduced price meal or free milk application, on the application, or, for children directly certified, in the document informing households of the participants' eligibility through direct certification. The notification should state that the children's names, eligibility status and other information provided on the application or obtained through direct certification may be disclosed to certain other Federal, State or local agencies as authorized by the NSLA. A list of the specific programs is not necessary.

Parents/guardians must be notified of the potential disclosure or specific

disclosure and given the opportunity to elect not to have their children's information disclosed.

The notification of potential disclosure or specific disclosure must inform the parents/guardians:

- that they are not required to consent to the disclosure;
- that the information will be used to facilitate the enrollment of eligible children in a health insurance program or other programs; and
- that their decision will not affect their children's eligibility for free and reduced price meals or free milk.

The notice of either potential or specific disclosure must be given prior to disclosure and parents/guardians given a reasonable time limit to respond. For children who are determined eligible through direct certification, the notice of potential or specific disclosure may be in the document informing parents/guardians of their children's eligibility for free meals through direct certification.

See Appendix B for the link to a prototype notification of disclosure.

I. Agreements/Memoranda of Understanding

An agreement is not needed for Federal, State or local agencies evaluating or reviewing Child Nutrition Program operations. Similarly, an agreement is not necessary for disclosures to the Comptroller General. These activities are part of routine operations of the Child Nutrition Programs and enforcement.

Non-Medicaid/SCHIP Agencies

The LEA should enter into a written agreement with other entities, including NAEP, requesting the information prior to disclosing children's eligibility information. The agreement should:

- be signed by both the LEA and receiving entity;
- identify the entity receiving the information;
- describe the information to be disclosed and how it will be used;
- describe how the information will be protected from unauthorized uses and disclosures; and
- describe the penalties for unauthorized disclosure.

Medicaid/SCHIP Agencies

For any disclosures to Medicaid or SCHIP, the LEA and receiving agency must have an agreement or Memorandum of Understanding which includes:

- the health insurance program or health agency receiving children's eligibility information;
- the information that will be disclosed and specify that the information must only be used to seek to enroll children in State Medicaid or SCHIP;
- how the information will be used and how it will be protected from unauthorized uses and disclosures;

- the penalties for unauthorized disclosure; and
- the signature of the determining agency and the State Medicaid/SCHIP program or agency receiving the children's eligibility information.

In all cases, the receiving entity must be informed in writing that:

- eligibility information may only be used for the purpose for which the disclosure was made;
- further use or disclosure to other parties is prohibited; and
- a violation of this provision may result in a fine of not more than \$1000 or imprisonment of not more than 1 year, or both.

A prototype agreement is in Appendix C.

J. Other Disclosures that Require Parental Consent

Children's parents or guardians may always provide consent for the disclosure of any or all of the information related to their children's eligibility status (i.e., whether children are eligible for free or reduced price meals), or the information that the household provided through the free and reduced price meal eligibility process.

A disclosure of **all** eligibility information to any other Federal, State or local program or individual not included in the NSLA requires parental consent. Other programs that require parental consent are local health and local education programs and other local level activities. For example, the disclosure of children's eligibility for free and reduced price meals to determine children's eligibility for free text books or reduced fees for summer school requires consent when these are local initiatives and not State programs.

The disclosure of information other than names and eligibility status to the programs authorized only to receive participants' names and eligibility status also requires written consent. For example, determining agencies may disclose names and eligibility status to a Federal education program, but if the program requests family size, determining agencies must obtain consent prior to disclosure.

K. Consent Statement Requirements

The consent statement must be in writing. It may be obtained at the time of application, or at a later time.

The consent statement must:

- identify the information that will be shared and how the information will be used;
- be signed and dated. In the case of a child participant, the consent statement *must* be signed by the parent or guardian of the applicant household, even though the application for free and reduced price meals or

free milk may be signed by any adult household member. For adult participants in the Child and Adult Care Food Program, the adult participant *must* sign the consent statement unless a guardian has been appointed;

- state that failing to sign the consent statement will not affect eligibility or participation for the program and that the information will not be shared by the receiving program with any other entity or program; and
- enable the parent/guardian/adult to limit consent to only those programs with which he or she wishes to share information. For example, the consent statement could use a check-off system under which the applicant would check or initial a box to indicate that he or she wants to have information disclosed to determine eligibility for benefits from a certain program.

L. Social Security Numbers

The free and reduced price application requires the complete social security number of the adult household member who signs the application. Most programs that request children's free and reduced price meal or free milk eligibility information will not need the adult's social security number.

However, when disclosing or using the social security number provided by the household on the application for any purpose other than the program for which the number was collected (the NSLP, SBP, etc.), the determining agency must modify the notice required by the Privacy Act of 1974 concerning the potential uses of the social security number. The notice must inform households of the additional intended uses of the number.

M. Penalties for Improper Disclosure

The NSLA establishes a fine of not more than \$1000 or imprisonment of not more than one (1) year, or both, for publishing, divulging, disclosing, or making known in any manner or extent not authorized by Federal law, any eligibility information. This includes the disclosure of eligibility information by one entity authorized under the NSLA to receive the information to any other entity, even if that entity would otherwise be authorized to receive the information directly from the determining agency.

N. Questions and Answers

Q1 *What does disclosure mean as it relates to children's personal free and reduced price meal or free milk eligibility information?*

A Disclosure means revealing or using individual children's program eligibility

information that is obtained through the free and reduced price eligibility process for a purpose other than the purpose for which the information was obtained. Disclosure includes but is not limited to access, release, or transfer of personal data about children by means of print, tape, microfilm, microfiche, electronic communication or any other means. It includes eligibility information obtained through the free and reduced price application or through direct certification and whether the children are eligible for free meals or reduced price meals.

Q2 *May representatives of State or local education agencies evaluating the results and compliance with student assessment programs have access to children's eligibility information?*

A State and local representatives of State or local education agencies would be covered only to the extent that the assessment program was established at the State, not local level.

Q3 *May the principal of a school compare the test scores of students in his/her school, by socioeconomic status, to the test scores of students in another school in the same district?*

A Students' names and free or reduced price eligibility status may be disclosed, without consent, for a Federal or State education program. However, parental consent is required for disclosure to a local education program.

Q4 *May the LEA disclose eligibility information to other Child Nutrition Programs?*

A The LEA may disclose all eligibility information from children's free and reduced price applications or information obtained through direct certification to persons directly connected with the administration or enforcement of the programs authorized under the NSLA or Child Nutrition Act of 1966. This includes the NSLP, SBP, SMP, Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). This means that program eligibility information collected for any one of the Child Nutrition Programs may be shared with another Child Nutrition Program, even if the programs are sponsored by different entities. For example, a public school may disclose information from children's free and reduced price school meal applications, without parental consent, to a SFSP administered by a parks and recreation agency.

Q5 *Who are persons "directly connected" to the administration or enforcement of a program?*

- A** The LEA may disclose children’s eligibility status only to persons determined to be “directly connected” with the administration or enforcement of a Federal education program, State education program, State health program or a means-tested nutrition program; also, to persons directly connected with the Comptroller General Office or law enforcement for an authorized activity.

Persons directly connected to program administration or program enforcement include Federal, State and local program operators responsible for the ongoing operation or activities of their respective program, and compliance officials responsible for the monitoring, reviewing, auditing or investigating a program authorized to have access to free and reduced price eligibility information.

- Q6** *Who are persons “directly connected” with the administration of State Medicaid and SCHIP?*

- A** Persons directly connected with the administration of State Medicaid and SCHIP for purposes of disclosure of free and reduced price meal and free milk eligibility information are State employees and persons authorized under Federal and State Medicaid and SCHIP requirements to carry out initial processing of applications or to make eligibility determinations. Check with your State Medicaid/SCHIP coordinator to determine the persons or entities in your State authorized to enroll children in Medicaid and SCHIP.

- Q7** *What eligibility information may an LEA disclose to means-tested nutrition programs?*

- A** Without parental consent, the LEA may only disclose name and eligibility status. Disclosure of other information, such as parents’ names and address, requires parental notification and consent.

- Q8** *Who is responsible for making the decision on whether to disclose children’s eligibility status and/or to disclose other personal information?*

- A** Whether or not to disclose children’s eligibility information is a local decision. The LEA should develop a policy on disclosing free and reduced price meal eligibility information. However, for disclosures to Medicaid and SCHIP, the decision on disclosure is a joint SA/LEA decision. Both the SA and LEA must agree to disclose children’s information to Medicaid and SCHIP.

- Q9** *When I notify parents that their information will be disclosed to Medicaid or SCHIP unless they decline to have their information shared, how long to I have to wait for a response from the parent before I release their*

information?

A LEAs should provide adequate time for any parental response. A minimum of 10 calendar days should be provided. It is a good idea to include a date in the parental notification statement that informs households that they *must* respond by a specified date if they do not want their information disclosed to Medicaid or SCHIP.

Q10 *Can the SA enter into a Memorandum of Understanding for all LEAs for disclosing information to Medicaid/SCHIP?*

A No.

Q11 *How do I know who to contact for more information regarding Medicaid and SCHIP?*

A For State and Federal Medicaid, visit:
<http://www.cms.hhs.gov/home/medicaid.aspedicaid>.
For SCHIP, visit: <http://www.cms.hhs.gov/home/schip.asp>.

Part 8: Verification of Eligibility for School Meals

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Part 8: Verification of Eligibility for School Meals

A. General Definitions

Verification is confirmation of eligibility for free and reduced price meals under the NSLP and SBP. Verification is only required when eligibility is determined through the application process, not through direct certification. Verification must include either confirmation of income eligibility or confirmation that the child is a member of a family (household) receiving assistance under the Food Stamp Program, FDPIR or TANF program. Verification may include confirmation of any other information required on the application.

Direct verification is using records from public agencies to verify income and/or program participation. See Part 9 of this manual.

Error prone means applications within \$100 per month of the applicable Income Eligibility Guideline. Error prone replaces the term “Focused Sample.”

Random sampling means each application has an equal chance of being selected. A statistically valid random sample is not required. The LEA must determine a selection interval by dividing the number of applications by the required sample size.

Sample pool means the total number applications approved as of October 1.

Sample size means the number of applications subject to verification

B. Exceptions from Verification Requirements

Verification efforts are not required:

- for children who have been certified under direct certification procedures including children documented as eligible migrant, runaway or homeless children;
- for children in RCCIs except for applications for any day students attending the institution;
- in schools in which the FNS has approved special cash assistance claims based on economic statistics regarding per capita income, e.g., Puerto Rico and the Virgin Islands;
- in schools participating only in the SMP;

- in schools in which all children are served with no separate charge for food service and no special cash assistance is claimed, i.e., non-pricing programs claiming only the paid rate of reimbursement;
- in LEAs in which all schools participate in Provisions 1, 2 or 3 *except* in those years in which applications are taken for all students in attendance, i.e., the base year.

C. Initial Verification Procedures

Each LEA must annually verify eligibility of children from a sample of household applications approved for free and reduced price meal benefits for that school year unless the SA assumes responsibility for verification on behalf of its LEAs.

The LEA may begin verification activity once the application approval process for the current school year is underway and there are approved applications on file. To do so, the LEA may project the number of approved applications (sample pool) that it anticipates will be on file on October 1. The projected number is based on prior years' experience. However, the final sample pool is the actual number of approved applications on file as of October 1. **The sample size must be based on the October 1 sample pool.** Any estimates must be compared with the actual number of applications on file on October 1 and the sample pool and sample size adjusted accordingly.

Establishing the Sample Pool

The sample pool uses the total number of approved applications on file as of October 1 of the current school year. LEAs may choose not to count applications for students in split-session kindergarten programs participating in the SMP when determining the verification sample pool.

The sample pool depends on the number of applications (paper or electronic) and is not based on the number of children eligible for free and reduced priced meals.

Establishing the Sample Size—General Conditions

Once the sample pool is determined, the LEA calculates the sample size—the number of applications that must be verified. When calculating the sample size, all fractions or decimals are rounded upward to the nearest whole number. At least one application must always be verified.

With the exception of verification for cause, LEAs **must not** verify more than or less than the standard sample size or the alternate sample size (when used) and must not verify all (100% of) applications. Verification conducted “for cause” is done in addition to the required verification sample size. (See D. Verification for Cause in this part).

Verification Completion Deadlines

The LEA must complete the verification activities specified in this section not later than November 15 of each school year. However, the LEA may request an extension of the November 15 deadline, in writing, from their SA. The SA may approve, in writing, an extension up to December 15 of the current school year due to natural disaster, civil disorder, strike or other circumstances that prevent the LEA from the timely completion of verification activities. A request for an extension beyond December 15 *must* be submitted by the State agency to FNSRO for approval.

D. Verification for Cause

The LEA has an obligation to verify all questionable applications (verification “for cause”). Such verification efforts cannot delay the approval of applications. If an application is complete and indicates that the child is eligible for free or reduced price benefits, the application must be approved. Only after the determination of eligibility has been made can the LEA begin the verification process.

To verify an approved application for cause, the LEA must send the household a letter explaining that it must submit verification of eligibility information with the application for continued eligibility. (See H. Household Notification of Selection in this part). The verification letter may be sent at the same time as a notice of eligibility.

The LEA verifies applications for cause following the procedures in Sections H. through N. in this part. Any household that fails to submit requested verification information by the date specified by the LEA or that submits verification information that does not support the initial determination of eligibility must be sent a notice of adverse action (K. Notice of Adverse Action, in this part).

Once households have been requested to provide documentation for cause, the LEA must complete the verification process for these households.

E. Application Selection Procedures

Available Sample Sizes

There are three sample sizes established for verification activities. The standard sample size must be used by LEAs *unless* it qualifies to use one of the alternate sample sizes.

Standard Sample Size

The standard sample size is the *lesser of*:

- three (3) percent of all applications approved by the LEA for the school year, as of October 1 of the school year, selected from error prone applications; or
- 3,000 error prone applications approved by the LEA for the school year, as of October 1 of the school year.

Alternate Sample Sizes

LEAs that qualify may select one of the following sample sizes:

Alternate one:

The sample size equals the *lesser of*:

- 3,000 of all applications selected at random from applications approved by the LEA as of October 1 of the school year; or
- three (3) percent of all applications selected at random from applications approved by the LEA as of October 1 of the school year.

Alternate two:

The sample size equals the *lesser of* the sum of:

- 1,000 of all applications approved by the LEA as of October 1 of the school year, selected from error prone applications; **OR** one (1) percent of all applications approved by the LEA as of October 1 of the school year, selected from error prone applications

PLUS

- the *lesser of*:
 - 500 applications approved by the LEA as of October 1 of the school year that provide a case number in lieu of income information; **OR** one-half (½) of one (1) percent of applications approved by the LEA as of October 1 of the school year that provide a case number in lieu of income information

Also see Appendix F Sample Size Chart.

Completing the Sample Size

For sample sizes based on error prone applications, there may not be enough applications that meet this criterion. When this happens, the LEA must select, at random, additional approved applications (from both income and case numbers applications) to complete the required sample size.

In other situations, the number of error prone applications may exceed the required sample size. When this happens, the LEA must randomly select the required number of applications from all error prone applications.

F. Qualifying to use an Alternate Sample Size

There are two ways an LEA may **annually** qualify to use an alternate sample size based on lowered non-response rates.

Lowered non-response rate—All LEAs

Any LEA may use an alternate sample size for any school year when its non-response rate for the preceding school year is less than twenty percent.

For example, for School Year 2010-2011, the LEA may elect to use one of the alternate sample sizes because in School Year 2009-2010, the LEA's non-response rate was 18%.

Improved non-response rate—LEAs with more than 20,000 children approved for free and reduced price meals by application

An LEA with more than 20,000 children approved by application as eligible for free or reduced price meals as of October 1 of the school year may use an alternate sample size for any school year when its non-response rate for the preceding school year is at least ten percent below the non-response rate for the second preceding school year.

The following is an example of how an LEA may qualify based on an *improved* non-response rate:

Year 1: School Year 2006-2007

The LEA had:

- 21,000 children approved for free or reduced price meal benefits based on a total of 6,000 approved applications; therefore, 180 household applications (3% of 6,000) must be verified;
- Of those 180 households, 45 households failed to respond to verification requests, which results in a non-response rate of 25% ($45 \div 180$ as a percentage);
- The LEA must improve the 25% non-response rate by at least 10%. The improvement rate is calculated by multiplying the non-response rate by 10% which is $25\% \times 10\% = 2.5\%$.

Year 2: School Year 2007-2008

- The LEA again had 6,000 approved applications, so the sample size is 180 (3% of 6,000); the number of non-respondents was reduced to 40 which is a non-response rate of 22.2% ($40 \div 180$ as a percentage);
- The next step is to calculate the level of improvement needed between Year 1 and Year 2. This is done by subtracting Year 1's non-response rate from Year 2's non-response rate (25% minus 2.5% = 22.5%).

- Since 22.2% is less than the minimum non-response rate of 22.5%, there is more than a 10% improvement.
- The LEA is qualified to use an alternate sample size for School Year 2008-2009.

Year 3: School Year 2008-2009

- The LEA may choose to use one of the alternate sample sizes for its verification activities.

Continuing Eligibility for Use of an Alternate Sample Size

The LEA must annually determine if it is eligible to use one of the alternate sample sizes. If the LEA determines it is eligible, it must contact its SA in accordance with any procedures established by the State agency for use of alternate sample sizes.

State Agency Responsibilities

Each SA must establish a procedure for LEAs to designate use of an alternate sample size. The SA may also establish criteria for reviewing and approving the use of an alternate sample size, including deadlines for submissions.

G. Post Selection Procedures

There are two procedures that the LEA completes prior to contacting the household to obtain documentation of eligibility. These are the required confirmation reviews and the optional replacement of certain applications.

Confirmation Reviews

Prior to any other verification activity, an LEA official, other than the official who made the initial eligibility determination, must review each approved application selected for verification to ensure that the initial determination was accurate.

This requirement is waived if the LEA uses a technology-based system that demonstrates a high level of accuracy in processing an initial eligibility determination. LEAs must contact the State agency to determine if their system qualifies them for this waiver.

Further, any LEA that conducts a confirmation review of *all* applications at the time of certification is not required to conduct confirmation reviews.

Outcome of Confirmation Reviews

Depending on the outcome of each confirmation review, the LEA takes one of the following actions:

No change in status

If the initial eligibility status was correct, the LEA verifies the application.

Status changes from reduced price to free

The LEA:

- makes the increased benefits available immediately;
- notifies the household of the change in benefits; and
- verifies the application.

If verification reduces the level of benefits (from free to reduced price or paid), the household is sent a notice of adverse action.

Status changes from free to reduced price

The LEA:

- does not change the child's status; and
- verifies the application.

If the child's free status is verified, the LEA does not notify the household. However, if the child's status changes from free to either reduced price or paid, the household is sent a notice of adverse action.

Status changes from free or reduced price to paid

The LEA:

- immediately sends the household a notice of adverse action;
- does not verify the application;
- selects an similar application (for example, another error-prone application) for verification; and
- follows the confirmation review procedures for the newly selected application.

Replacing Applications

After completing the confirmation reviews, the LEA may, on a case-by-case basis, replace up to five percent of applications selected. Applications may be replaced when the LEA believes that the household would be unable to satisfactorily respond to the verification request.

Any application removed must be replaced with another approved application selected on the same basis (i.e., an error-prone application must be substituted for a withdrawn error-prone application). The newly selected application must then have confirmation review.

In those LEAs where five percent of total applications result is less than one, one application may still be replaced. All results of the five percent calculation are rounded up to the next whole number.

H. Household Notification of Selection

Once the LEA has completed the post selection procedures, it proceeds with household notification.

Contacting the Household

When a household is selected for verification and is required by the LEA to submit documents or other forms of evidence to document eligibility, the household must be sent a letter informing them of their selection and of the types of information acceptable to the LEA. Prototype notification materials may be found using the link in Appendix B. of this manual.

The letter must include the following:

- that the household was selected for verification;
- that the household must provide the complete social security number for each adult household member or indicate that an adult household member does not possess one; an adult member is anyone who is 21 years of age or older;
- a Privacy Act statement (See F. Contents of Application in Part 2 of this manual for details);
- the types of acceptable information that may be provided to confirm current income, including pay stubs, award letters from assistance agencies, social security, and support payment decrees from courts;
- that the household may provide proof that the child is a member of a household receiving assistance under the Food Stamp Program, TANF or FDPIR instead of providing income information and social security numbers of adult household members;
- that documentation of income or receipt of assistance may be provided for any point in time between the month prior to application and the time the household is required to provide income documentation;
- that information must be provided by a date as specified by the LEA and that failure to do so will result in termination of benefits; and
- the name of an LEA official who can answer questions and provide assistance; and
- a no-cost to the household telephone number.

For verification inquiries, the LEA must provide a telephone number that is available at no cost to the household. The LEA may establish a toll-free number or allow the household to reverse the charges if any households in that LEA are outside the local calling area. The LEA may also provide different telephone numbers for each local calling area within the LEA.

When the LEA uses agency records or direct verification (see I. Sources of Verification, Agency Records in this part and Part 9 Direct Verification in this manual) to confirm eligibility, a letter informing the household of its selection for verification is not required, since the household will not have to provide documents.

I. Sources for Verification

Written Evidence - Written evidence is the primary source of eligibility confirmation for all households including Food Stamp, TANF or FDPIR households. Written evidence is most often pay stubs from employers or award letters from welfare departments or other government agencies submitted by the household to the verifying officials as confirmation of eligibility.

Acceptable written evidence for income eligible households contains the name of the household member, amount of income received, frequency received, and the date the income was received. For example, a pay stub with no dates would be insufficient.

Acceptable written evidence for categorically eligible households contains a written statement from the Food Stamp, TANF, or FDPIR agency that specifies that the child is a member of a household which is receiving benefits such as a notice of eligibility. The verifying official should examine this notice of eligibility to ensure that the child for whom application was made is part of a household currently participating in Food Stamps, TANF or FDPIR. Electronic Benefit Transfer (EBT) cards cannot be used to confirm eligibility in the Food Stamp Program, and therefore cannot be used for categorical eligibility purposes. A Food Stamp, TANF or FDPIR document that does not specify the certification period is not adequate for documentation. For example, the Food Stamp identification card is not acceptable because it usually does not have an expiration date

A household that does not have satisfactory Food Stamp, TANF or FDPIR documentation may request a signed, dated letter from the Food Stamp, TANF or FDPIR office, certifying that the child for whom the application is being submitted is part of a household currently receiving Food Stamps, TANF or FDPIR benefits.

Collateral Contacts - A collateral contact is a person outside of the household who is knowledgeable about the household's circumstances and can give confirmation of a household's income or Food Stamp, TANF or FDPIR status or other categorical eligibility such as Head Start. Collateral contacts include employers, social service agencies, migrant workers' agencies, and religious or civic organizations. The verifying official should request a collateral contact only in cases when the household has not been able to provide adequate written evidence. A collateral contact would not be expected to provide social security numbers of the adult household members. These still must be provided by the household.

The verifying official must give the household the opportunity to designate the collateral contact. However, the verifying official may select a collateral contact if the household fails to designate one or designates one who is unacceptable to the verifying official. In either case, no contact may be made without first notifying the household and obtaining their permission.

All collateral contacts may be written or oral and must be documented, dated, and initialed. The LEA will examine any written information provided by the collateral contact or evaluate any oral information. If the collateral contact is unwilling or unable to provide the requested information, the LEA must contact the household to complete the verification process.

Verification of eligibility for households that provided a Food Stamp, TANF or FDPIR case number on the application may be accomplished by submitting a list of names and Food Stamp, TANF or FDPIR case numbers to the local Food Stamp or welfare office for confirmation of certification of receipt of benefits from agency records (see Part 9, Direct Verification in this manual).

Agency Records - A household's eligibility may be confirmed through the use of information maintained by other government agencies to which the SA, LEA, or school has legal access. Although USDA regulations do not require that households be notified of selection when verification is made through agency records, such agencies may have their own notification requirements.

One source of agency records is the wage and benefit information maintained by the State employment agency if that information is available to the verifying official. Such records are State records, and the release of information maintained by State employment offices is governed by State law. Also see Part 9, Direct Verification in this manual.

Acceptable documentation of income or receipt of assistance from any of the above sources may be provided for any point in time between the month prior to application and the time the household is required to provide income documentation.

When a household indicates no income

If a household is selected for regular verification or verification for cause and the application indicates zero income, the LEA must request an explanation of how living expenses are met and may request additional written documentation or collateral contacts.

J. Continuing the Verification Process Subsequent to Household Notification

To continue the verification process, the LEA must either determine:

- if the household has submitted adequate information to complete its individual verification activity; or
- if follow-up with the household is needed.

When Verification is Considered Complete

The following list shows how the LEA determines if the household adequately responded and follow-up is not required:

- The household submits the required social security numbers (income applications only) and there is either adequate written evidence or collateral contact corroboration of income or categorical eligibility. Verification is considered complete for this household.
- The household submits the required social security numbers (income applications only) and there is either adequate written evidence or collateral contact corroboration of income which indicates that the child(ren) should receive either a greater or lesser level of benefits. Verification is considered complete for this household when the notice of adverse action is sent or household is notified that its benefits will be increased.
- The household indicates, verbally or in writing, that it no longer wishes to receive free or reduced price benefits. Verification is considered complete when the notice of adverse action is sent.
- When it is determined that a child is not part of a household currently certified to receive Food Stamps, TANF or FDPIR. Verification is considered complete when the notice of adverse action is sent.

If verification results in higher benefits (e.g., a child who is moved from the reduced price to free category), this change is effective immediately and must be implemented no later than 3 operating days later. Parents should be notified through whatever channels the LEA uses to notify the household of approval for benefits.

Follow-up Attempt Requirement

The LEA must make **at least one follow-up attempt** to contact the household when the household does not adequately respond to the request for verification.

Follow-up Procedures

The follow-up attempt may be in writing (including e-mails) or by telephone and the LEA must document that a contact was attempted.

- The LEA must inform the household that failure to provide adequate written evidence or to designate an adequate collateral contact will result in termination of benefits;
- The follow-up contact must attempt to obtain the missing written evidence or obtain collateral contact information;
- If the collateral contact is unwilling or unable to provide the requested information, the LEA must contact the household to complete the verification process.

When Follow-up Must Be Initiated

The LEA must make a follow-up attempt when the household:

- does not respond to the request for verification;
- submits insufficient or obsolete written evidence;
- does not designate collateral contacts; or
- the collateral contacts are unable or unwilling to provide the requested evidence.

If after at least one follow-up attempt:

- the household responds and provides all needed evidence. Verification is considered complete for this household if:
 - there is no change in benefits;
 - household is notified that its benefits will be increased; or
 - when the notice of adverse action is sent.
- the household does not respond. Verification is considered complete for this household when the notice of adverse action is sent.
- the LEA is unable to continue its verification activities because the household fails to provide adequate written evidence or knowledgeable collateral contacts. Verification is considered complete for this household when the notice of adverse action is sent.

K. Notice of Adverse Action

All households for whom benefits are to be reduced or terminated *must* be given 10 calendar days' written advance notice of the change. A prototype notice of adverse action may be found using the link in Appendix B. of this manual.

The first day of the advance notice period is the day the notice is sent. The notice *must* advise the household of the following:

- the change in benefits;
- the reasons for the change;

- that an appeal *must* be filed within the 10 calendar day advance notice period to ensure continued benefits while awaiting a hearing and decision;
- the instructions on how to appeal;
- that the household may reapply for benefits at any time during the school year; and
- that Food Stamp, FDPIR or TANF households may submit an application containing household names and income information and provide written evidence of current household income and the social security numbers of adult household members.

L. Benefits During an Appeal

When a household appeals a reduction or termination of benefits within the 10 calendar day advance notice period, the LEA must continue to provide the benefits for which the child was originally approved until a final determination is made. The LEA may continue to claim reimbursement at that level during this period.

When a household does not appeal a reduction or termination of benefits during the 10 calendar day advance notice period, or the hearing official rules that benefits must be reduced, the actual reduction or termination of benefits must take place no later than 10 operating days after the 10 calendar day advance notice period, or 10 operating days after the decision by the hearing official.

M. Hearing Procedure

The hearing procedure in the LEA's free and reduced price policy statement must be followed. The hearing official must be an individual who was not connected with the approval or verification process.

The household may request a school conference prior to a formal hearing. Any such conference must not prejudice a later appeal.

N. Households that Reapply for Program Benefits

Households affected by a reduction or termination of benefits may reapply for benefits at any time during the school year. However, if benefits to a household have been terminated and the household reapplies in the same school year, the household is required to submit income documentation or proof of participation in Food Stamps, FDPIR or TANF at the time of reapplication. These are not considered new applications.

O. Recordkeeping

General

Documentation must be kept by the LEA to demonstrate compliance with the verification requirements when LEAs are reviewed by State or Federal reviewers including documentation concerning any appeals. LEAs must maintain a description of their verification efforts. The description must include a summary of the verification efforts including the selection process; the total number of applications on file on October 1 and the percentage or number of applications that are/will be verified by November 15. The LEA must also be able to demonstrate compliance with the confirmation review requirement and provision of a no-cost telephone number for assistance in the verification process.

Individual Applications

For each application, the LEA must keep records of the source of information used to verify the application such as wage stubs or names and titles of collateral contacts. The LEA must retain:

- copies of all relevant correspondence between the households selected for verification and the LEA;
- one of the following for all documentation used to verify eligibility:
 - ◆ all documents submitted by the household or reproductions of those documents; or
 - ◆ in cases where the actual documents or photocopies cannot be kept, the verifying official must make a written record of the documents submitted by the household including the type of document, e.g., wage stubs or letter from an employer, income shown on the document, time period of the income, and the date of the document and any changes in eligibility as a result of verification procedures, the reasons for the changes, and the date the change was made.
- any change in eligibility as a result of verification procedures, the reason for the change and the date the household was notified, if necessary, and the date it became effective.
- records of follow-up attempts and results.

LEAs should also record:

- any additional information necessary to show the efforts made by the LEA to meet the verification requirements;
- the title and signature of the verifying official
- the criteria for replacing applications for verification.

When verification information is needed for coordinated review effort (CRE) purposes, the LEA must be able to provide this information for each school selected for review.

P. Questions and Answers

Q1 *What kind of written evidence is required for verification of a foster child's application?*

A School officials should contact the household in which the foster child resides and ask for the name, agency, and phone number of the social worker assigned to that child. A phone call to the social worker confirming the child's status as a foster child and the amount of money designated by the agency for the child's personal use is sufficient verification. The school official should, however, document the phone conversation with the social worker (identifying the social worker, agency, phone number, status of the child, and the child's personal-use income). Another approach would be to ask the foster family for a copy of a written communication between the foster family and the placement agency in which the status of the child and the financial arrangement is stated. If the family is unable to provide such information, a phone call to the placement agency to confirm the child's status and income should be made prior to denying the child free meals.

Q2 *Can I get a list of foster children from the courts or other responsible agency?*

A Yes, as long as the documentation discussed in question 1 can be provided. Unless part of the court or agency record, the LEA would be responsible for determining which school the foster child attended.

Q3 *What if an application is selected for verification, but the household transfers out of the school district before the information can be verified?*

A If a household selected for verification transfers out of the district before the information can be verified, verification cannot be completed. To meet the minimum verification requirements, a new application *must* be selected.

Q4 *What if I use other agency records and the agency does not provide a response before November 15?*

A The LEA should document that it contacted another agency well in advance of deadline which demonstrates good faith. This would be a valid reason for the State agency to extend the deadline.

Q5 *How is overtime income counted for the purposes of verification?*

- A** The LEA official should work with the household to determine whether the overtime for the month being verified is representative of overtime received in other months. If the overtime is a one-time or sporadic source of income, income should be calculated based on the regular monthly income without overtime.
- Q6** *If a household is paid weekly and submits a pay stub for a week, must I go back and ask for pay stubs for a whole month?*
- A** No. If the weekly pay stub is representative of what the household normally receives each week, one pay stub is sufficient.
- Q7** *In our school district, no one lives outside of the local calling area. Do we have to provide a no-cost telephone number for verification questions?*
- A** The LEA doesn't have to have a toll-free number to call but a parent must be able to call collect if, for example, she/he works outside of the local calling area and are unable to contact the LEA during the LEA's hours of operation.

Part 9: Direct Verification

Section Contents

- A. General
- B. Names Submitted for Direct Verification
- C. Direct Verification with the Food Stamp or TANF Programs or FDPIR
- D. Direct Verification with Medicaid and SCHIP
- E. Documentation Timeframe
- F. Incomplete or Inconsistent Information from Direct Verification

Part 9: Direct Verification

A. General

Direct verification is using records from public agencies to verify income and/or program participation. Direct verification may be completed at the State or local level or through a joint effort at both levels.

LEAs are not required to conduct direct verification. However, any LEA that wishes to conduct direct verification must contact their SA for assistance with establishing a direct verification method.

LEAs may conduct direct verification activities with the Food Stamp and TANF programs and FDPIR as well as the agency that administers the State plan for Medicaid, and the State Children's Health Insurance Program (SCHIP). Direct verification must be conducted prior to contacting the household for documentation. The public agency's records may document income for any point in time between the month prior to application and the time the household is required to provide income documentation.

Also see The LEA and SA

B. Names Submitted for Direct Verification

The LEA must only submit the names of school children certified for free or reduced price meal benefits listed on the application. These names are submitted to the agency administering an eligible program (for example, the Food Stamp Program or the Medicaid program). The names of other household members (all adults, children who are not attending school, or children not approved for free or reduced price meals) cannot be submitted for direct verification purposes.

C. Direct Verification with the Food Stamp or TANF Programs or FDPIR

If information obtained through direct verification of an application for free or reduced price meal benefits indicates a child is participating in one of these programs, no additional verification is required. The eligibility status of the child or children listed on the application is considered verified.

D. Direct Verification with Medicaid and SCHIP

For States with Medicaid and/or SCHIP income limits of 133% or less:

- If the income eligibility used for the Medicaid or SCHIP is not more than 133% of the official poverty line or where those households that have income that is not more than 133% of the official poverty line can be identified, records from these agencies may be used to verify eligibility.
 - ◆ If information obtained through direct verification with these programs verifies the eligibility status of the child or children listed on the application, no additional verification is required.

- For States with Medicaid and/or SCHIP income limits between 133%-185%:
 - ◆ Direct verification information must include either
 - the percentage of the official poverty line upon which the applicant's participation is based; or
 - the income and household size used by Medicaid or SCHIP in order to determine that the applicant is either at or below 133% of the Federal poverty line, or is between 133% and 185% of the Federal poverty line.
 - ◆ Verification for children approved for free meals is complete if the data indicates that the percentage is at or below 133% of the Federal poverty line.
 - ◆ Verification for children approved for reduced price meals is complete if the data indicates that the percentage is at or below 185% of the Federal poverty line.
 - ◆ If information obtained through direct verification with Medicaid or SCHIP verifies eligibility status, no additional verification is required.

E. Documentation Timeframe

The information used for direct verification must be the most recent information available which is defined as data which is no older than 180 days prior to the date of the free and reduced price application. To be consistent with policy established for "regular" verification, direct verification efforts may use information from any point in time between the month prior to application and the time the LEA conducts direct verification.

In other words, for direct verification, LEAs and State agencies may use:

- the latest available information for one month (within the 180-day requirement); OR

- information for all months from the month prior to application through the month direct verification is conducted.

For example, the SA or LEA may request data for the month of September or, if available, for August through October.

F. Incomplete or Inconsistent Information from Direct Verification

If information provided by the public agency does not verify eligibility, the LEA must proceed with regular verification activities in Part 8 of this part.

Part 10: Appendices

Section Contents

- A. Policy Statement
- B. Prototype Applications and Related Materials
- C. Prototype Disclosure of Free and Reduced Price Information Agreement
- D. Disclosure Chart by What May be Released
- E. Update on Electronic Transactions in the Child Nutrition Programs - Policy Memo, May 1, 2007
- F. Sample Size Chart

Appendix A

Contents of the Free and Reduced Price Policy Statement

Required Information

The free and reduced price policy must contain, at a minimum, the following: the names of official(s), or the position of the LEA or school official, designated to make eligibility determinations;

- an assurance that the LEA will determine eligibility in accordance with the current Income Eligibility Guidelines;
- the LEAs specific procedures to accept applications for benefits and its direct certification procedures;
- a description of the method(s) used to collect payments from children paying the full price of the meal or milk or the reduced price of the meal which prevents the overt identification of the children receiving free or reduced price meals or free milk;
- an assurance that the school will abide by the hearing procedures and the nondiscrimination practices; and
- a copy of the application form and letter to households.

The free and reduced price policy statement should also contain a copy of the following:

- the media release;
- the notice to households of approval or denial of benefit;
- the notice to households of selection for verification;
- the notice to households of adverse action; and
- in LEAs that have opted to implement direct certification, the notice of eligibility under direct certification.

Amendments to Policy Statement

Unless there is a substantive change made to the free and reduced price policy of the LEA, the policy statement need not be changed and resubmitted for SA approval. Routine changes, such as inclusion of the new income eligibility guidelines (IEGs), are not sufficient to require resubmission. The LEA *must* amend its policy statement for any substantive changes to its free and reduced price policy and include a description of the change. In all cases, the LEA *must* have an approved policy statement on file at the SA that accurately describes its current free and reduced price policies. Amendments must be submitted for approval by the SA by October 15. The amendments must be approved by the SA prior to implementation.

The amendments must reflect:

- changes made necessary by law/regulations;
- changes made by the LEA, e.g., changes in collection procedures, designation of new approving/hearing official(s), changes in procedures for accepting applications, and revisions in the letter to households or application for free and reduced price meals/free milk;
- additional information specified by the SA.

Policy Statement for LEAs operating the SMP

A free policy statement *must* be approved by the SA or FNSRO for LEAs participating in the SMP with the free milk option. SFAs may submit one policy statement for both meals and milk when some of the schools in the district participate in the SMP and others participate in meal programs. Specific instructions on the development of the policy statement and policy approval process are provided to LEAs by the SA.

Appendix B

Prototype Applications and Related Materials

FNS has developed a prototype application and related materials which have been translated into a number of different languages. These materials may be accessed at <http://www.fns.usda.gov/cnd/FRP/frp.process.htm>.

States may adopt these or develop their own State specific forms. For application forms for your State, contact your State administering agency responsible for the administration of the Child Nutrition Programs.

Appendix C

PROTOTYPE DISCLOSURE OF FREE AND REDUCED PRICE INFORMATION AGREEMENT

I. PURPOSE AND SCOPE

(Insert name of determining agency) and (insert name of receiving agency) acknowledge and agree that children's free and reduced price meal and free milk eligibility information obtained under provisions of the Richard B. Russell National School Lunch Act (42 USC 1751 et. seq.) (NSLA) or Child Nutrition Act of 1966 (42 USC 1771 et. seq.) (CNA) and the regulations implementing these Acts is confidential information. This Agreement is intended to ensure that any information disclosed by the (insert name of determining agency) to the (insert name of receiving agency) about children eligible for free and reduced price meals or free milk will be used only for purposes specified in this Agreement and that the (insert name of determining agency) and (insert name of receiving agency) recognize that there are penalties for unauthorized disclosures of this eligibility information.

II. AUTHORITY

Section 9(b)(6)(A) of the NSLA (42 USC 1758(b)(6)(A)) authorizes the limited disclosure of children's free and reduced price meal or free milk eligibility information to specific programs or individuals, without prior parent/guardian consent. Except that, the parent/guardian must be provided the opportunity to decline to share eligibility information prior to the disclosure for identifying children eligible for benefits under or enrolling children in the State Medicaid Program and the State children's health insurance program. Additionally, the statute specifies that for any disclosures not authorized by the statute, the consent of children's parents/guardians must be obtained prior to the disclosure.

The *requesting* agency certifies that it is currently authorized to administer the following program(s) and that information requested will only be used by the program(s) indicated:

Check all that apply

	Program	Information authorized
	<i>Medicaid or the State children's health insurance program (SCHIP), administered by a State or local agency authorized under titles XIX or XXI of the Social Security Act. Specify Program:</i>	All eligibility information, unless parents elect not to have information disclosed.
	<i>State health program other than Medicaid/SCHIP, administered by a State agency or local education agency. Specify Program:</i>	Eligibility status only; consent not required.
	<i>Federal health program other than Medicaid/SCHIP Specify Program:</i>	NO eligibility information, unless parental consent is obtained.
	<i>Local health program Specify Program:</i>	NO eligibility information, unless parental consent is obtained.
	<i>Child Nutrition Program under the National School Lunch Act or Child Nutrition Act Specify Program:</i>	All eligibility information; consent not required.
	<i>Federal/State or local means tested nutrition program with eligibility standards comparable to the National School Lunch Program Specify Program:</i>	Eligibility status only; consent not required.
	<i>Federal education program Specify Program:</i>	Eligibility status only; consent not required.
	<i>State education program administered by a State agency or local education agency Specify Program:</i>	Eligibility status only; consent not required.

Note: Section 9(b)(6)(A) specifies that certain programs may receive children's eligibility status **only**, without parental consent. Parental consent must be obtained to disclose any additional eligibility information. Section 9(b)(6)(A)(iv) specifies that for State Medicaid or SCHIP, parents must be notified and given opportunity to elect not to have information disclosed. Social security numbers may only be disclosed if households are given notice of the disclosure and the uses to be made of their social security numbers as required by Sec. 7 of the Privacy Act.

III. RESPONSIBILITIES

(Insert Name of Determining Agency) will:

When required, secure parents/guardians consent prior to any disclosure not authorized by the National School Lunch Act or any regulations under that Act, unless prior consent is secured by the receiving agency and made available to the determining agency;

For State Medicaid and SCHIP notify parents/guardians of potential disclosures and provide opportunity for parents/guardians to elect not to have information disclosed;

Disclose eligibility information only to persons directly connected to the administration or enforcement of programs authorized access under the National School Lunch Act or regulations under the Act or to programs or services for which parents/guardians gave consent.

(Insert Name of Receiving Agency) will:

Ensure that only persons who are directly connected with the administration or enforcement of the *(insert name of the Program)* and whose job responsibilities require use of the eligibility information will have access to children's eligibility information:

(Specify by name(s) or title(s))

Use children's free and reduced price eligibility information for the following specific purpose(s):

(Describe)

Inform all persons that have access to children's free and reduced price meal eligibility information that the information is confidential, that children's eligibility information must only be used for purposes specified above, and the penalties for unauthorized disclosures.

Protect the confidentiality of children's free and reduced price meal or free milk eligibility information as follows:

Specifically describe how the information will be protected from unauthorized uses and further disclosures.)

Description of Procedures to Transfer Meal Eligibility Information (May be completed by either the determining agency or receiving agency)

Describe the procedures for transferring students' meal eligibility information from the determining agency to the requesting agency/program so as to limit the number of individuals who have access to the information.

(Describe)

IV. EFFECTIVE DATES

This agreement shall be effective from _____ to _____

V. PENALTIES

Any person who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (Section 9(b)(6)(C) of the National School Lunch Act; 42 USC 1758(b)(6)(C)) or a regulation, any information about a child's eligibility for free and reduced price meals or free milk shall be fined not more than a \$1,000 or imprisonment of not more than 1 year or both.

VI. SIGNATURES

The parties acknowledge that children's free and reduced price meal and free milk eligibility information may be used only for the specific purposes stated above; that unauthorized use of free and reduced price meal and free milk information or further disclosure to other persons or programs is prohibited and a violation of Federal law which may result in civil and criminal penalties.

Requesting Agency/Program Administrator

Printed Name: _____

Title: _____ Phone: _____

Signature: _____

Date: _____

Determining Agency Administrator

Printed Name: _____

Title: _____ Phone: _____

Signature: _____

Date: _____

***Any attachments will become part of this agreement.**

Appendix D

Disclosure Chart by What May be Released

All Eligibility Information		
Recipient of Information	Information that May be Disclosed to Recipient	Required Notification and Consent
<i>Child Nutrition Programs</i> under the National School Lunch Act or Child Nutrition Act (NSLP, SBP, SMP, CACFP, SFSP, and WIC)	All eligibility information	Prior notice and consent not required
<i>Federal, State or local law enforcement officials</i> investigating alleged violations of any of the programs under the NSLA and CNA or investigating violations of any of the programs authorized to have access to names and eligibility status	All eligibility information	Prior notice and consent not required
<i>Comptroller General</i> of the United States for purposes of audit and examination	All eligibility information	Prior notice and consent not required
<i>Medicaid</i> or the <i>State children's health insurance programs (SCHIP)</i> , administered by a State or local agency authorized under titles XIX or XXI of the Social Security Act to identify and enroll eligible children	All eligibility information, unless parents elect not to have information disclosed	Must give prior notice to parents and opportunity for parents to decline to have their information disclosed
Eligibility Status Only		
Recipient of Information	Information that May be Disclosed to Recipient	Required Notification and Consent
<i>Federal/State or local means tested nutrition programs</i> with eligibility standards comparable to the NSLP	Eligibility status only	Prior notice and consent not required
<i>Federal education programs</i>	Eligibility status only	Prior notice and consent not required
<i>State education programs</i> administered by a State agency or local education agency	Eligibility status only	Prior notice and consent not required
<i>State health programs</i> other than Medicaid/SCHIP, administered by a State agency or local education agency	Eligibility status only	Prior notice and consent not required
No Eligibility Information, Unless Parental Consent Is Obtained		
<i>Local education programs</i>	NO eligibility information, unless parental consent is obtained	Must obtain parental consent
<i>Federal health programs</i> other than Medicaid/SCHIP	NO eligibility information, unless parental consent is obtained	Must obtain parental consent
<i>Local health program</i>	NO eligibility information, unless parental consent is obtained	Must obtain parental consent

Appendix E

United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive
Alexandria, VA
22302-1500

DATE: May 1, 2007

MEMO CODE: SP 10-2007, SFSP 06-2007, CACFP 07-2007

SUBJECT: Update on Electronic Transactions in the Child Nutrition Programs

TO: State Agencies
Child Nutrition Programs
All States

Special Nutrition Programs
All Regions

We have received numerous questions regarding the electronic transfer of information in the administration of State-administered Federal programs. This memo updates the October 2, 2001 policy memo regarding electronic transactions in Child Nutrition Programs (CNP).

Two Federal laws which address the electronic transfer of information are the Government Paperwork Elimination Act (GPEA) of 1998 and the Electronic Signatures in Global and National Commerce Act (E-SIGN) of 2000. The provisions in these laws apply to Federal agencies; however, they do not apply to State Agencies (SAs) or local agencies. Local agencies include Local Education Agencies (LEAs) in the National School Lunch Program (NSLP) and School Breakfast Program (SBP), institutions in the Child and Adult Care Food Program (CACFP), and sponsoring organizations (sponsors) in the Summer Food Service Program (SFSP). Each State and local agency should review the State statutes and policies regarding the electronic transfer of information in State-administered Federal program.

These Questions and Answers (Q&As) are intended to provide general guidance on the use of electronic transactions for CNP. This guidance can provide a framework for SAs and local agencies to implement their own systems and establish their own policies which must ensure the legal sufficiency of the information and signature provided.

The Q&As cover different types of electronic transactions, those between SAs and local agencies and those between local agencies and households, such as electronic application. State statutes and policies regarding the electronic transfer of information may be different depending on the parties involved.

In accordance with the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108-265), which amended section 9(b) of the National School Lunch Act, we encourage local agencies to accept electronic household applications. Local agencies must have the capability to provide legally binding electronic signatures as per State and local regulation.

Update on Electronic Transactions in the Child Nutrition Programs
Page 2

When local agencies do not have the capability to provide legally binding electronic signatures, local agencies must collect a hard copy signature of critical program documents, such as household application. A Level 2 authentication would meet program requirements for most CNP documents as defined in question B5 of this guidance.

At the end of the Q&As, we have also included a definition section and a website list. These documents will assist in understanding some of the more technical terms and concepts used throughout the Q&As.

Please share this information with local agencies. If you have any questions regarding this memorandum, please contact your respective Regional Office.

STANLEY C. GARNETT
Director
Child Nutrition Division

Attachment

**Electronic Transactions in the Child Nutrition Programs
Questions and Answers
2007 Revision**

A) GENERAL

A1. What is the authority for electronic signatures, or electronic use of information in government programs?

Two Federal laws which address the electronic transfer of information are the Government Paperwork Elimination Act (GPEA) of 1998 and the Electronic Signatures in Global and National Commerce Act (E-SIGN) of 2000. The provisions in these laws apply to Federal agencies; however, they do not apply to State Agencies (SAs) or local agencies. Local agencies include Local Education agencies (LEAs) in the National School Lunch Program (NSLP) and the School Breakfast Program (SBP), institutions in the Child and Adult Care Food Program (CACFP), and sponsoring organizations (sponsors) in the Summer Food Service Program (SFSP). Each State and local agency should review their State's statutes and policies regarding the electronic transfer of information in State-administered Federal programs.

A2. What other guidance should SAs or local agencies review before implementing an electronic system?

These Q&As provide general guidance on the use of electronic signatures and the use of electronic transactions for Child Nutrition Programs (CNP). They provide a framework for SAs and local agencies to implement their own systems and establish their own policies which must ensure the legal sufficiency of the information and signature provided. SAs and local agencies should review their respective State and local laws on electronic transactions with their State and/or local counsel.

Before developing and implementing an electronic based system to manage their school programs, we recommend SAs and local agencies review the following guidance documents used by Federal agencies (See website addresses at the end of this document):

- *Department of Justice (DOJ) legal considerations in designing and implementing electronic processes, November 2000.*
- *Office of Management and Budget (OMB) E-Authentication Guidance, M-04-04, December 16, 2003.*
- *National Institute of Standards and Technology (NIST) Electronic Authentication Guideline, NIST SP 800-63, April, 2006.*

A3. Does FNS approve any specific software product to establish electronic systems?

No. FNS does not review or approve any specific software product dealing with point of service counts, or with the certification or verification processes. If a local agency receives any information to the contrary, the local agency should notify the State agency, which should notify the respective FNS Regional Office.

A4. Are SAs required to accept information online from local agencies and institutions? Are local agencies required to accept online applications from households?

No. However, we encourage SAs and local agencies to make use of the efficiencies that technology can provide.

A5. Several SAs have already implemented online systems. Is there a potential for information sharing?

Yes. Many States already have online systems developed to assist them in administering the CNP. We encourage States to share their experiences and information on their electronic systems with other SAs. If a State system was developed in whole or in part with State Administrative Expense (SAE) funds, some or all of the system may be available to the States without charge.

A6. Can SAs or local agencies use a combination of paper-based and electronic documents or systems?

Yes. Total conversion from a paper-based system to an electronic one may not be appropriate in all cases. Regardless of the systems that SAs or local agencies use, all documents – electronic or paper - must be legally binding.

A7. Do SAs or local agencies need to have a hard copy signature on file, or is the electronic document sufficient?

An electronic document is sufficient when SAs and local agencies have the capability to provide legally binding electronic signatures. When SAs or local agencies do not have the capability to provide legally binding electronic signatures, SAs or local agencies must collect a hard copy signature of critical program documents (e.g., agreements, first claim submission, household applications, etc.).

A8. Which CNP documents can be submitted electronically?

Institution applications, facility applications, site information sheets, claims for reimbursements, agreements, and household applications may all be filed electronically if SAs and local agencies have the capability to provide legally binding electronic signature, as determined in conjunction with their respective State and/or local counsel.

Institution applications and claims may be submitted online from the institution or local agency to the SA using legally binding electronic signatures, such as personal identification numbers (PINs) and passwords.

1. If a system uses digital signatures rather than PINs and passwords, it is

- possible to obtain all documents electronically, without having the need for an original hard copy.
2. Permanent agreements can be initially filed electronically with the SA provided they are legally binding. Otherwise, permanent agreements must initially be filed in hard copy. It would then be feasible to amend agreements online once a relationship has been established.
 3. Household applications may be submitted online from applicants to local agencies, when local agencies have the capability that allows households to provide legally binding electronic signatures.

A9. Can SAs or local agencies require the use of electronic household application submissions exclusively?

No. Local agencies must be able to provide paper household applications even if they have an electronic application process.

B. LEGAL AND SECURITY ISSUES

B1. If a SA or local agency wants to convert its paper-based system to an electronic one, which basic guidelines should it consider?

SAs or local agencies will need to consider several issues such as potential security risks, costs of implementation and training, and any legal risks associated with this change. Some of the risks include deliberate misuse of the data, or accidents and errors which result in a loss of data.

We recommend that SAs and local agencies follow the same general guidelines prescribed to Federal agencies by the Department of Justice (DOJ) for electronic transactions. SAs and local agencies should also review their respective State and local laws on electronic transactions with their State and/or local counsel.

DOJ's general guidelines advise that Federal agencies:

1. Examine the process being considered for conversion to electronic documents, forms or transactions. Identify customer needs and demands as well as the existing risks associated with fraud, error or misuse.
2. Identify and evaluate the risks and benefits of using electronic documents, transfer of information and electronic signatures in terms of cost and increased or decreased security. This evaluation should take into account the relationships of the parties, the value of the transactions or documents, the future need for the documents (i.e., retention of records), and the need for this process.
3. Consult with counsel about the specific legal implications of using electronic documents and signatures for applications and other program documents. Periodically seek counsel's advice for updates on new Federal and State legislation in this area.

4. Develop plans for retaining and disposing of information, ensuring that it can be made continuously available to those who will need it and that the plans can accommodate changes in staffing. They must ensure that the new electronic system(s) meets Program requirements.
5. Develop management strategies to provide appropriate security for access to electronic records. Consider unique legal risks presented when outsourcing management and storage of agency or school data. Any contractual arrangement for outsourcing management or storage functions should comply with the basic requirements of the Federal Programs and State and local laws.
6. Review State agency regulations or policies to make sure they support electronic transactions and recordkeeping. If new regulations, policies or amendments to agreements are necessary, disseminate them to local agencies and institutions, as appropriate.
7. Seek continual input from their computer specialists or technology experts for updates on technology and consider how these updates will affect their system.
8. Perform periodic review and evaluation of electronic documents, processes, and mechanisms, as appropriate.

B2. What steps should SAs and local agencies follow to ensure electronic records are legally binding?

SAs and local agencies should review their respective State and local laws on electronic transactions, consult with their counsel, and consider DOJ's guidelines to determine proper procedures for your State.

In general, to be legally binding documents for the Federal government, DOJ recommends that electronic records contain, at a minimum, the following information:

1. Date and time of the transaction;
2. Identity and location of each person who transmitted the information, such as:
 - a. an identifier traceable to a particular individual (e.g. digital or digitized signatures, or other identifiers, depending on which is appropriate), and
 - b. a means of identifying the source of the transmission (e.g. mail server identification, e-mail account name, time-stamped Internet Protocol ("IP") address);

The identity of an individual can be established to varying degrees of certainty by the individual's transmission or use of any of the following:

- something the individual knows (e.g. a password or secret number, personal information);
 - something the individual possesses (e.g. a token or magnetic card);
 - something the individual is (e.g. a physical or biometric attribute); or
 - any combination of the above.
3. Confirmation from the recipient agency that the transaction was received (e.g. agreements and monthly claims);

4. The intent of the transaction;
5. The complete contents of the transaction, including any attachments or exhibits;
6. A complete listing of the terms of the agreement and instructions and an indication that these were made available to the submitting party;
7. Certification that the submitting party intended to be legally bound by the terms of the transaction (e.g., the person agrees to be held accountable for the information he or she submits);
8. Certification from the individual to the truth and accuracy of the presented information (e.g., the person is not submitting fraudulent information); and
9. A mechanism in place which proves that the transaction was not altered after it was sent.

B3. What are some of the legal issues a SA or local agency should consider in deciding to convert a paper-based system to an electronic one?

DOJ identifies four main issues for Federal agencies, which State and local agencies should consider in deciding whether to convert a paper-based system to an electronic one:

1. Availability and accessibility of the information - *(this issue is expanded in B4)*.
2. Legal sufficiency - meet applicable legal requirements and provide adequate evidence of its transactions and actions.
3. Reliability - underlying processes that create or maintain the data must be reliable.
4. Compliance with other Federal and State laws - legal requirements can affect the use of electronic processes in many contexts, some requiring that the government be able to produce or disclose information, others prohibiting the government from releasing specified information.

B4. What are some of the issues relating to information availability and accessibility that SAs and local agencies should consider when developing an electronic based system?

According to DOJ's guidelines for Federal agencies:

1. An electronic process collects all relevant information, such as:
 - Content: content of the transaction, including all records that comprise the substance of the transaction or filing.
 - Processing: records that contain information about how the transaction was processed, including dates received and changes or modifications that were made in records.
 - Identities: a means to authenticate the identity of all people who participated in the transaction both inside and outside the State agency or local agency.
 - Intent of parties: a means for establishing the intent of the participants to enter into the transaction or agreement.
2. The information is retained properly by:
 - Determining which information should be retained and for what period of

time.

- Designing electronic systems to safeguard against data corruption, such as accidental deletion, equipment failures, storage media deterioration over time, or other hardware and software problems.
3. The information is readily accessible:
- Computer software and formatting standards quickly become obsolete.
 - Qualified staff may not be available with knowledge of the electronic processes necessary to read older data.
 - Passwords and encryption codes are preserved to maintain access to the archived information.

B5. What are some of the security issues a SA or local agency should consider in deciding to convert a paper-based system to an electronic one?

OMB identifies four identity authentication assurance levels for e-government transactions (M-04-04). We recognize that some of the technical guidelines may not be feasible for SAs or local agencies to apply. When SAs do not have the capabilities to provide legally binding electronic signatures, they must require documents to be initially submitted in hard copy. NIST SP-800-63 identifies the technical guidelines for each of the four levels of identity authentication assurance. Levels 1 and 2 are discussed below. Levels 3 and 4 are not included because these levels have more stringent standards and may not be appropriate. SAs and local agencies may review this information on NIST SP 800-63, April, 2006.

• Level 1: Little or no confidence in the asserted identity's validity.

Although there is no identity proofing requirement at this level, the authentication mechanism provides some assurance that the same claimant is accessing the protected transaction or data. It allows a wide range of available authentication technologies to be employed. For example, a verifier might obtain a subscriber password from a Credentials Service Provider (CSP) and authenticate the claimant by use of a challenge-response protocol.

• Level 2: Some confidence in the asserted identity's validity.

At Level 2, identity proofing requirements are introduced, requiring presentation of identifying materials or information. A wide range of available authentication technologies can be employed at Level 2, such as passwords and PINs (See *Definitions*). Eavesdropper, replay, and on-line guessing attacks are prevented. To determine the appropriate level of assurance in the user's asserted identity; SAs or local agencies must assess the potential risks from an authentication error. The risk from an authentication error is a function of two factors: a) potential harm or impact; and b) the *likelihood* of such harm or impact.

The categories of harm and impact include:

- Inconvenience, distress, or damage to standing or reputation.
- Financial loss or agency liability.
- Harm to agency programs or public interests.
- Unauthorized release of sensitive information.

- Personal safety.
- Civil or criminal violations.

Based on the above categories of harm and impact, a Level 2 authentication would meet program requirements for most CNP documents, including institution applications, facility applications, site information sheets, claims for reimbursements, agreements, and household applications. Therefore, as appropriate, the SA and local agency must establish a process that links the electronic signature to the applicant.

B6. If a State agency would like to use electronic signatures in its transactions with local agencies or institutions, what form of electronic signatures should be used?

SAs or local agencies have discretion on what form of legally binding electronic signatures would be most beneficial to their programs. Digital signatures (see *Definitions*) should be used if the person or entity coming into a contract is unknown. If digital signatures are not possible, a combination of paper-based (hard copy) and PIN or passwords should be used, at a minimum.

B7. What is a Digital Signature and Public Key Infrastructure System? (See *Definitions for these terms.*)

A digital signature ensures the content of a document has not been altered and prevents the sender from denying the fact that he or she signed and sent the document.

Digital signatures are implemented using a Public Key Infrastructure (PKI) system. PKI technology provides the mechanism to ensure electronic transactions are more secure than their paper counterparts. PKI offers the security services of confidentiality, authenticity, integrity, and technical non-repudiation because:

- The sender and recipient both are uniquely identified so the parties know where the information is coming from and where it is going to (identification and authentication);
- There is an assurance the transmitted information was not altered deliberately or inadvertently (data integrity);
- There is a way to establish that the sender's identity is inextricably bound to the information (technical non-repudiation); and
- The information is protected from unauthorized access (confidentiality or privacy). (Please be aware, however, confidentiality and privacy concerns are not covered in that detail in this guidance. Confidentiality requirements are covered in section 9 of the Richard B. Russell National School Lunch Act; for the NSLP at 7 CFR 210.18; for the application process for the CNP, at 7 CFR 245.1, 245.2(a)(a-3), 245.6(b)(1), 245.6(f), 245.8(b), and in FNS policy memos dated:

12/7/98; 1/26/01; 8/9/04; 9/15/06.

C) ELECTRONIC RECORDKEEPING

C1. How should SAs or local agencies maintain or “file” electronic documents?

For Federal agencies, DOJ states that records need to be complete, uniform, easily understood and easily accessible. In addition, they need to have been kept under a system that ensures a chain of custody (i.e., a system which can identify each person who was responsible for the information during specific times) and insures the integrity of the information gathered from all sources. Records and e-processes will need to comply with other laws such as those governing privacy, confidentiality, State statutes, etc. Some laws may specify which form and format is to be used for certain e-processes. Agencies should also have a method in place to recover data that may have been encrypted or password-protected with forgotten or canceled passwords, and be able to recover data that was received using outdated software.

C2. Can a SA or local agency use an outside entity to help manage its electronic records and information?

Yes. The DOJ guidance permits Federal agencies to contract out with a third party (private or public organization or agency) to help manage collection and storage of electronic data. We believe that the DOJ guidance in this area can be applied to SAs which administer the CNPs as well as to local agencies participating in the Programs. However, it is important to note DOJ emphasizes that not all private industry systems are appropriate for government use. Federal agencies or local agencies must carefully consider the legal and security risks associated with turning over agency files to a third party and ensure that the third party complies with all participant confidentiality rights.

DEFINITIONS

Authenticate - Assuring the identity of the user. With electronic signatures, that would include use of passwords or PINs.

Authentication – Security measure designed to establish the validity of a transmission, message, or originator, or a means of verifying an individual’s authorization to receive specific categories of information.

Confidentiality - Ensuring limited access to authorized entities (codes).

Credentials Service Provider (CSP) – A trusted entity that issues or registers subscriber tokens and electronic credentials. The CSP may encompass registration authorities and verifiers that it operates. A CSP may be an independent third party, or may issue credentials for its own use.

Digital Signature – A digital signature is created when the owner of a private signing key uses that key to create a unique mark (the signature) on an electronic document

or file. A *digital signature* ensures that the content of a document has not been altered and prevents the sender from repudiating the fact that he or she signed and sent the document. It marks a document with one half of a key pair and requires the second half to authenticate the signer. This is commonly known as “Public Key Infrastructure” (PKI, see below). Digital signature, which is implemented by using a PKI system, is the only type of electronic signature to date that completely ensures the information’s validity and repudiation. If a digital signature is used, data integrity can be assured.

Digitized Signature – A digitized signature is a graphical image of a handwritten signature. Some applications require an individual to create his or her hand-written signature using a special computer device, such as a digital pen and pad.

Electronic Signature – An electronic signature is a sound, symbol or process attached to or associated with a contract or other record, and executed or adopted by a person with the intent to sign the record. There are different *Electronic Signatures* available, such as digitized signatures, biometrics, passwords, personal URL addresses, personal identification numbers (PINs), smart cards, and “I Agree” buttons.

Integrity/Data Integrity - To ensure that data or information has not been modified or altered in any unauthorized manner.

Password - A secret that a claimant memorizes and uses to authenticate his or her identity. Passwords are typically character strings.

Personal Identification Number (PIN) – A password consisting only of decimal digits.

Public Key Infrastructure (PKI) - Is the whole system that implements digital signatures and allows them to be used with specific programs to offer secure communications. A PKI enables users of a basically unsecured public network such as the Internet to securely and privately exchange data through the use of a public and a private cryptographic key pair that is obtained and shared through a trusted authority. The public key infrastructure provides for a digital certificate that can identify an individual or an organization and a directory service that can store the certificates.

Smart Card - A smart card is a plastic card the size of a credit card containing an embedded integrated circuit or “chip” that can generate, store, and/or process data.

RELEVANT WEBSITES

Please refer to the following websites for more information about electronic transactions.

OMB

Memorandum M04-04, E-Authentication Guidance for Federal Agencies.
<http://www.whitehouse.gov/omb/memoranda/fy04/m04-04.pdf>

Memorandum M00-15, OMB Guidance on Implementing the Electronic Signatures in Global and National Commerce Act.

<http://www.whitehouse.gov/omb/memoranda/m00-15.html>

Implementation of the Government Paperwork Elimination Act.

<http://www.whitehouse.gov/OMB/fedreg/gpea2.html>

DOJ

Legal Considerations in Designing and Implementing Electronic Processes: A Guide for Federal Agencies

<http://www.usdoj.gov/criminal/cybercrime/eprocess.htm>

NIST

NIST SP-800-63, Electronic Authentication Guideline

http://csrc.nist.gov/publications/nistpubs/800-63/SP800-63V1_0_2.pdf

<http://csrc.nist.gov/pki/>

Others

Government Paper Elimination Act, National Archives

<http://www.archives.gov/records-mgmt/policy/electronic-signature-technology.html>

Appendix F

Sample Size Chart

Sample Size Option	Why random sampling is required	How to apply random sampling technique
Standard	Number of error prone applications exceeds required sample	Divide total number of error prone applications by the required sample size
Standard	Number of error prone applications is less than required sample	Divide total number of non-error prone applications by the number of applications need to complete the sample size
Alternate 1	Alternate 1 only uses randomly selected applications	Divide the total number of applications on file on October 1 by the number of applications required for the sample size.
Alternate 2	Number of error prone applications or case number applications exceed required sample	Divide total number of error prone applications OR the total number of case number applications by the required sample size
Alternate 2	Number of error prone applications or case number applications is less than required sample	Divide total number of non-error prone/non-case number applications by the number of applications need to complete the sample size