

## Requirements for Information Release of Student Eligibility Status

The U.S. Department of Agriculture (USDA) confidentiality rules protect student and household information collected to determine free and reduced-price meal eligibility for School Nutrition Programs (SNP) based on [7 CFR 245.6](#). Local Education Agencies (LEAs) may disclose children's free and reduced-price eligibility information to programs, activities, and individuals specifically authorized to access it under the National School Lunch Act (NSLA). The [Eligibility Manual for School Meals](#): Section 5. Confidentiality and Disclosure and Appendix C: Prototype Agreement for Disclosure of Free and Reduced Price Information

### Requirements:

- ✓ LEAs must protect student eligibility status according to USDA rules of confidentiality.
- ✓ LEAs are required to obtain the following information prior to disclosure:
  - The type of program.
  - What information is being requested.
  - Who is making the request.
  - Why the information is needed.
- An “*Agreement for Disclosure of Free and Reduced Price Information*” must be on file that has been signed by both the ‘Requesting’ department and the School Nutrition department.
- ✓ Once this information is established, use the Confidentiality Requirements of Common Programs Chart (below) to determine if disclosure is allowed and if parent consent is required.
- ✓ LEAs may share name and eligibility status only for the purposes of federal and state education programs.
- ✓ LEAs must obtain parental consent to share information with local education programs.
  - Obtain consent from the child's parent or guardian who is a member of the child's household. This must be:
    - ♣ Obtained prior to disclosure.
    - ♣ Obtained for each individual program. Parents must be able to limit consent only to programs for which they wish to share information.
- ✓ Households must be informed that the information they provide on the meal or milk application may be disclosed to other programs.
- ✓ For directly certified students, the notice of potential disclosure must be included in the document informing parents or guardians of their eligibility for free meals or free milk through direct certification.
- ✓ Any release of information requires a data sharing agreement

**Aggregate Data:** Aggregate data may be released, and program operators are encouraged to communicate with requestors to understand exactly what data is needed. Food service staff can calculate and release aggregate data.

**Need to Know:** Although a program or person may be authorized under the National School Lunch Act to receive free and reduced-price eligibility information, there must be a legitimate “need to know”.

### Student Records in Child Nutrition Programs

The Federal Department of Education has established that education records are under the scope of the Family Education Rights and Privacy Act (FERPA). If free and reduced-price information and eligibility status are maintained as part of a student's education record, both FERPA and NSLA disclosure rules apply.

### Penalties for Unauthorized Disclosure

The NSLA establishes a fine of not more than \$1,000 or imprisonment of not more than one year, or both, for publishing, divulging, disclosing, or making known in any manner or extent not authorized by Federal law, any eligibility information. Entities authorized to receive data under a data sharing agreement may

not share that data with another entity or for any other purpose. For example, food services shares information via a data sharing agreement with a principal, the principal may not share that information with the school counselor.

**Additional Reminders:**

- Disclosure requirements apply to student information obtained through all processes, including the direct certification process.
- If a child is directly certified, the LEA must have a system in place to obtain consent from these households before sharing their information.
- Consent must be obtained annually.
- Disclosure of student eligibility information to a non-custodial parent is not allowed without written consent.
- In all cases, do not release how the student is eligible, i.e., direct certification, any income, etc. There are frequently unique situations. Please contact the state office with questions.

**Confidentiality Requirements of Common Programs Chart**

*(from Page 86—87 of the Eligibility Manual for School Meals)*

Recipient of Information	What May Be Disclosed	Requirements
Programs under the National School Lunch Act or Child Nutrition Act	All eligibility information	Prior notice and consent not required
Federal, State, or local means tested nutrition programs with eligibility standards comparable to the NSLP	Eligibility status only	Prior notice and consent not required
Federal education programs	Eligibility status only	Prior notice and consent not required
State education programs administered by a State agency or LEA	Eligibility status only	Prior notice and consent not required
Local education programs	No eligibility information, unless parental or guardian consent is obtained	Must obtain parental consent
Medicaid or CHIP, 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	Must obtain parental consent
State health programs other than Medicaid or CHIP, administered by a State agency or LEA	Eligibility status only	Prior notice and consent not required
Federal health programs other than Medicaid/SCHIP	No eligibility information, unless parental or guardian consent is obtained	Must obtain parental consent
Local health program	No eligibility information, unless parental or guardian consent is obtained	Must obtain parental consent
Comptroller General of the United States for purposes of audit and examination	All eligibility information	Prior notice and consent not required
Federal, State or local law enforcement officials 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