

PART 3: PROCESSING APPLICATIONS

A. BENEFITS PRIOR TO PROCESSING APPLICATIONS

Before applications are processed for the new school year and up to the first 30 operating days, beginning with the first operating day of the school year, the LEA must carry-over eligibility and claim free and reduced price meals served to:

- Children from households with approved applications on file from the previous year;
- Newly enrolled children from households with children who were approved for benefits in the LEA the previous year; and
- Previously approved children who transfer from one school to another under the jurisdiction of the same LEA. For children transferring within the same LEA from a school using Provisions 1, 2, or 3, carryover is applicable only if the prior year was a base year and the child's individual eligibility information is available. If the applications are not centrally maintained, both the sending and the receiving school must maintain a copy of the child's approved application from the previous school year.

Children from schools participating in the Community Eligibility Provision (CEP) who transfer within the same LEA to a school not participating in CEP must complete a free and reduced price meal application or can be determined eligible for free meals through direct certification. If a child's direct certification information from the previous year is available, that child may receive free meals during the carryover period.

CARRYOVER OF PREVIOUS YEAR'S ELIGIBILITY

Carryover of previous year's eligibility applies to direct certification, categorical eligibility determinations and income applications. (See *Part 6: Direct Certification for Assistance Programs.*) Carryover is for up to 30 operating days (beginning with the first operating day of school) into the current school year or until a new eligibility determination is made, either approved or denied. *The new eligibility determination supersedes the carryover eligibility.*

Carryover of the eligibility status from the previous year also applies to children in Head Start Programs if the SFA administers both the Head Start Program and the school in which the child attends kindergarten.

Local school officials are encouraged to expedite eligibility determinations for new enrollees.

The carryover period is in place to allow schools an appropriate amount of time to process applications, especially large school districts. However, the carry over period is not intended to allow schools to delay the processing of applications. Instead, schools must process applications as they are received and promptly notify the household of their eligibility status.

Note: 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.” If a household does not submit an application or children are not directly certified by the end of the carryover period, the LEA is not required to send the household a denial letter or a notice of adverse action.

B. APPLICATION PROCESSING TIMEFRAME

Unless the children in a household are determined eligible through direct certification, the household should 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 benefits from an Assistance Program, are Other Source Categorically Eligible, or are determined eligible based on the household’s size and income.

Households that choose not to apply for the NSLP cannot be required to submit an application for free or reduced price benefits. Additionally, 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 or a birth date, processing of the application cannot be delayed.

Applications must be reviewed in a timely manner. An eligibility determination must be made, the family notified of its status, and the status implemented within 10 operating 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. For LEAs choosing to use the *Effective Date of Eligibility* flexibility, refer to Part 7.

Households should be notified immediately if benefits are denied or reduced from the level of the previous year in order to provide adequate time for the family to make appropriate arrangements for payment to prevent the household from accumulating meal charges. A new lower eligibility determination should be implemented only after the family has been notified. For example, in the case of a household that received free benefits the previous year and will now receive reduced price benefits for the new school year, adequate notice should be provided to the household.

C. DETERMINING COMPLETION OF SUBMITTED APPLICATIONS

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 size and income. 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.

CATEGORICAL ELIGIBILITY

Assistance Programs

These sources of categorical eligibility may be determined based on an application submitted by a household because these programs provide distinct case numbers. In all instances where a case number for an Assistance Program is used on an application, there must be the corresponding household member's name.

There are no "mixed households" under the Assistance Programs because if any member of the household receives benefits from any of the Assistance Programs, all children listed on the application are eligible for free meals. If income information is also provided, it should be ignored.

For these situations, a complete application must provide:

- Names of the children for whom the application is made;
- SNAP, FDPIR or TANF case number, or other FDPIR identifier, for the child(ren) or for any household member listed on the application; and
- Signature of an adult household member.

EXTENSION OF CATEGORICAL ELIGIBILITY

LEAs must ensure that all children in a household that lists an Assistance Program case number on an application for any household member are provided free meal benefits. This extension of categorical eligibility also applies to the direct certification process. LEAs should validate case number(s)/other identifier(s) listed on the application by reviewing direct certification data or contacting local assistance program officials. For the extension of categorical eligibility, validation means a confirmation of an active case number.

OTHER SOURCE CATEGORICAL ELIGIBILITY (EXCEPT FOSTER CHILDREN)

Children may be categorically eligible due to Other Source Categorical Eligibility status through an application (or direct certification). Under this designation, an appropriate box or other indication on the application must be checked indicating the child's status. The child is determined eligible for free meals and the LEA must then document the status with appropriate officials for each program (as described below).

A complete application must provide:

- Names of children for whom application is made;
- Indication of child's categorical eligibility status (for example, a box for each category is shown on the prototype application and households must check the appropriate one); and
- Signature of adult household member.

The household indication of an Other Source Categorically Eligible status must be confirmed prior to certification for free or reduced price meals.

OTHER SOURCE CATEGORICAL ELIGIBILITY FOR FOSTER CHILDREN

A foster child, as defined in Part 1B of this manual, is categorically eligible for free meals. The child's status for free meals is taken at face value, as with income applications. No further action/follow-up is required. If an application is submitted for a foster child or the foster child is included on the foster family's application, then the application is part of the verification pool and the foster child's eligibility must then be verified, if it was not directly certified, subsequent to submission of an application.

A complete application must provide:

- Name of the foster child;
- Indication of a child's foster care status (for example, a box for each category is shown on the prototype application and households must check the appropriate one); and
- Signature of an adult household member.

INCOME ELIGIBILITY

Those households applying for meal benefits for their children who are not:

- Eligible through categorical eligibility under Assistance Programs;
- Eligible through Other Source Categorical Eligibility; or
- Foster children must submit an application and be determined eligible for meal benefits based on household size and income.

A complete application must provide:

- Names of all household members;
- Amount and source of current income for each member and the frequency of the income;
- Signature of an adult household member; and
- Last four digits of the social security number of the adult household member who signs the application or an indication that the household member does not have one.

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 *Part 4C: Determining Household Reportable Income.*)

INDICATION OF DIFFERENT TYPES OF ELIGIBILITY

On applications indicating mixed households, where some children are Other Source Categorically Eligible and some children are not, the LEA must 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 status or may process the application separately in a computer-based system.

After determining a child(ren)'s Other Source Categorically Eligible status for free meal benefits (which requires documentation of their status, except for children in foster care), the LEA must use the household's income and size (including children in the other source category) to determine if the non-categorically eligible child(ren) listed on the application are eligible for meal benefits .

In such mixed households, Other Source Categorically Eligible children will receive free meal benefits even if other children listed on the application are determined either eligible for reduced price meals or ineligible for free or reduced price meal benefits.

A complete mixed application must provide:

- Names of all household members;
- Amount and source of current income for each member and the frequency of income;
- A checked box indicating the Other Source Categorical Eligibility status of a child; for a foster child, list any personal income made available to the foster child, or earned by the foster child, as appropriate (it is optional for the household to include foster children residing in their care);
- Signature of an adult household member; and
- Last four digits of the social security number of the adult household member who signs the application or an indication that the household member does not have a social security number.

REVIEWING SUBMITTED APPLICATIONS

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. LEAs should validate case number(s)/other identifier(s) listed on the application by reviewing direct certification data or contacting local assistance program officials. Validation means a confirmation of an active case number.

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 Child Nutrition Programs 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 undocumented individuals.

LEAs may not request citizenship status or immigration status on the application as this may deter otherwise eligible households from applying.

E. CURRENT INCOME/CONVERSIONS

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 month for which the application is filled out 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.

If a household provided only annual income, the LEA must ensure that this is an accurate reflection of their current income.

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 Income Eligibility Guidelines (IEGs). For example, if a household of three 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 category 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; or
- Bi-weekly income (received every two weeks) by 26; or
- Semi-monthly income (received twice a month) by 24; or
- 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. If an LEA uses software for application or certification purposes, the software cannot use conversion factors and cannot automatically convert income unless there are different frequencies.

INDICATING INCOME AND INCOME SOURCES

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.

Applications where no income information is provided are considered incomplete. The LEA must follow up with the household to determine their status as “zero” income or their current income.

F. DETERMINING ELIGIBILITY

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

DETERMINATION USING CASE NUMBERS

The determining official must assure that the Assistance Programs case number or other identifier consistent with the identifiers used in that program in that State are valid. LEA officials need to be familiar with the format of valid case numbers/other identifiers. LEAs should validate case number(s)/other identifier(s) listed on the application by reviewing direct certification data or contacting local assistance program officials.

Validation means a confirmation of an active case number. Applications with invalid case numbers or FDPIR identifiers must not be approved. However, for any child or household member with a valid case number/other identifier, the LEA must approve all children in the household as eligible for free benefits.

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

DETERMINATION FOR OTHER SOURCE CATEGORICALLY ELIGIBLE CHILDREN

LEA officials must document eligibility under these circumstances through the appropriate officials as discussed in Part 5 of this manual. Further, if an LEA official has knowledge that a child may be Other Source Categorically Eligible (other than foster children; see section on foster children) and an application was not submitted, that official may apply on that child's behalf and then must confirm their status through appropriate officials. Applying on a child's behalf is important when there may be a delay in documenting whether a child meets the definition of homeless, migrant, runaway or enrolled in a Head Start program. If a child's eligibility status is not confirmed, the benefits must be terminated unless household size and income information were provided through an application.

When an LEA receives an application with any of the Other Source Categorical Eligibility categories checked, the determining official must document free meal eligibility for each child in any of those categories as described in Part 5. An appropriate official from the agencies must confirm a child's status either through direct contact with the agency or by a list of names provided by the agency. Unlike categorical eligibility under Program Assistance which extends eligibility to all children in the household, Other Source Categorical Eligibility must be determined individually for each child listed as such.

DETERMINATION 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 4C: Determining Household Reportable Income*).
- 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 required information is missing; 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 child's parent or guardian either by phone or in writing, including e-mail. 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 to the household for a 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; that is, verification “for cause”. However, 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 meal benefits, the application must be approved. Only after the determination of eligibility has been made can the LEA begin the verification process (see *Part 9D: Verification for Cause*).

G. DURATION OF ELIGIBILITY

A child’s eligibility is in effect from the date of eligibility for the current school year and up to 30 operating days into the subsequent school year. LEAs may have additional flexibility concerning the effective date of certification for meal benefits (see Part 7: Effective Date of Eligibility Determinations). However, this does not apply when the initial eligibility determination was incorrect or when verification of household eligibility, including verification for cause, does not support the level of benefits for which the household was approved. In those instances, officials must make appropriate changes in eligibility.

PROHIBITION ON THE USE OF TEMPORARY APPROVAL

Temporary approval of an application is no longer permitted because of the year-long duration of eligibility provision. If LEAs/schools are concerned with the authenticity of the information provided on an application, they may, on a case by case basis, verify the application for cause.

H. 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 should contact the household prior to denial, document the details of the contact, and date and initial the entry.

I. HOUSEHOLDS THAT FAIL TO APPLY

Local school officials may complete an application for a child known to be eligible for meal benefits 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 known to the official.

The source of the information must be noted on the application. Names of household members, the last four digits of the social security number, and the signature of an adult household member need not be secured. These applications are excluded from verification. However, the household must be notified that the child has been certified to receive free or reduced price meal 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.

J. NOTIFICATION OF ELIGIBILITY DETERMINATION

Households must be notified of their eligibility status. Households with children who are approved for free or reduced price meal benefits may be notified in writing or verbally.

Households with children who are denied benefits must be provided with written notification of the denial. LEAs that use an automated telephone information system must also give written notification of denial. The notification must advise the household of:

- Reason for denial of benefits;
- Right to appeal;
- Instructions on how to appeal; and
- Their ability to re-apply for free and reduced price benefits at any time during the school year.

Failure to reapply during the carryover period is not a denial of benefits for the current school year. LEAs are not required to notify families or send reminders. A notice of adverse action is not required as eligibility was not established for the current school year.

K. CHANGE IN HOUSEHOLD CIRCUMSTANCES

Because of year-long duration of eligibility, households are not 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 benefits are decreased, the household would then be provided a notice of the adverse action as provided in Part 9, Section K.

L. 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 (Part 1 C: Policy Statement).

M. RECORDKEEPING

APPROVED APPLICATIONS

LEA officials must:

- Indicate approval date;
- Indicate the level of benefit for which each child is approved; and
- Sign or initial the application.

DENIED APPLICATIONS

LEA officials must:

- Indicate the denial date;
- Indicate the reason for denial;
- Indicate the date the denial notice was sent; and
- Sign or initial the application.

CHANGES DURING THE SCHOOL YEAR

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

- Note the change;
- Write the date of the change on the application; and
- Implement the change by updating rosters or other methods used at 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 until resolution of the issues raised by the audit.

Special provision schools must retain base year direct certification data and applications for a minimum of 3 years after a new base year is established.

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 recorded on each school's list.

N. TRANSFERRING ELIGIBILITY

Transferring Within the Same LEA

If a child transfers to another school in the same LEA in the same school year, his/her eligibility must be transferred (see below for handling transfers from a Provision 1, 2, 3, or Community Eligibility Provision (CEP) school).

When a child transfers within the same LEA from a school using Provision 1, 2, or 3, a new application or direct certification is required unless the transfer is in a base year for the Provision schools when the child's individual eligibility information was taken and is available. If the transfer is done in a non-base year, a new application is required unless current individual free or reduced price eligibility information is available through direct certification or an approved application for another child in the household. These procedures are also applicable when a child transfers to a new school district.

When a child transfers *within the same LEA* from a school using CEP to a non-CEP school, a new application or direct certification is required unless the child's individual eligibility information was determined through direct certification in the same school year and is available. In addition, if there is an approved application for another child in the household, that eligibility status can be used.

Transferring to another School District/LEA

Schools accepting applications, CEP and Provision 1, 2, 3 schools are not required to share eligibility data with a new LEA/school district when a student transfers. However, the information below provides information on handling transfers between different school districts when the former district chooses to share the eligibility data.

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, 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 by that LEA.

When a student in a CEP school transfers to *another school district/LEA*, the new LEA may accept the eligibility determination from the student's former LEA if the eligibility for that student was based on current direct certification (i.e., transfers within the school year in which direct certification was conducted, or there is an approved application for other children in the household that do not attend a CEP school). If current eligibility is not available from the sending LEA, the student must either be directly certified by the receiving LEA or submit an application.

O. RESTRICTIONS

The information provided by families on the free and reduced price application 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 determining and verifying free or reduced price eligibility must inform households of this potential disclosure. 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 and give them the opportunity to decline the disclosure. (See *Part 8: Confidentiality/Disclosure*.)

Distribution and processing applications *solely for information about household income* to determine the funding or benefits for programs other than the school meals programs or to determine eligibility for other programs is not permitted. Therefore, funds in the nonprofit school food service account cannot be used to pay the costs associated with collecting and processing such information.

A school or LEA must obtain the household income information for non-program purposes 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-program purposes*, the applications *must not be labeled as applications for meal 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 allows submission of an application solely for free or reduced meal or free milk benefits.

The LEA must seek written consent from the parent(s) or guardian(s) to use the information provided on the application for non-program purposes or for purposes not permitted in this guidance. (See Part 8 for additional guidance on disclosure restrictions.)

P. INDEPENDENT REVIEW OF APPLICATIONS

Beginning in SY 2014-15, LEAs designated by the State agency as demonstrating high levels of, or a high risk for, administrative error associated with certification and benefit issuance are required to conduct a second review of applications.

A second review of applications requires a re-evaluation of the eligibility determination made by the original determining official, based on the information provided by the household on the application. The second review must determine whether the application is complete, i.e., the application contains the signature of an adult household member, the last four digits of a social security number (or an indication of "none"), names of all household members including the student for whom the application is made, income amount (received by each household member identified by the individual who receives it), income source and frequency; or categorical information, if applicable. The second review must also confirm that the application was correctly approved based on current income eligibility information, as applicable, and that the master list or roster of student names correctly records the student's eligibility.

The second review of applications must be done before the household is notified of eligibility and must not result in the delay of an eligibility determination. LEAs required to conduct a second review of applications are still required to notify households of the child's eligibility determination within 10 operating days of receiving the application.

Refer to SP 44-2014, *Questions and Answers Related to the Independent Review of Applications*, for more information on this requirement.

Q. QUESTIONS AND ANSWERS

PROCESSING APPLICATIONS

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

Questions frequently 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 State agency.

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

All required information must be provided by the household and cannot be derived from another source.

3. A school sent home a statement requiring all households to complete and submit the application for free and reduced price meal benefits. Is this permissible?

Schools cannot require a household to submit an application if they choose not to do so.

4. 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?

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.

5. 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?

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, 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 an opportunity to resolve the discrepancy during the (10 calendar days) 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.

6. 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?

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 income information on the application and initial and date the action. The application would then be processed accordingly.

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

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 that 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.

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

The determining official may sign or initial and date a sheet of paper that would then be attached to a batch of applications or make a note to the electronic file. 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.

9. Can a web-based application system ask for a student identification number or student birth date?

A web-based application system may ask for a student identification number or student birth date if an LEA notifies households that the two data fields are not required by NSLP, SBP or SMP. The LEA must also ensure that a paper-based application is available to households that do not wish to provide the additional information. This notification should be included on the web-based portal. The disclaimer should indicate the availability of a paper-based application and provide a contact number for further assistance.

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

If these children are determined homeless by the school district's homeless liaison or are receiving D-SNAP (special disaster benefits), they must be certified for free meals or free milks. Contact your State agency for assistance.

DETERMINING IF AN APPLICATION IS COMPLETE

1. Does an emancipated child sign his/her own applications? Are the last 4 digits of a social security number required?

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.

2. What if the racial/ethnic data collection question is not completed?

Parents' provision of this information is voluntary, and failure to provide the information must not affect the child's eligibility for benefits.

3. 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?

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.

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

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, to the parent/guardian's email address, 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 through the postal system or an email to the parent's/guardian's email address.

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

Foster parents who choose to apply for meal benefits for their children may include their foster child(ren) (including a preschool foster child) on the application as a household member. A foster child's income (personal income provided to the child or earned by the child) is only considered when the foster parent(s) submit an application for the non-foster children in the household. Regardless of the eligibility of the foster family's own children, the foster child is categorically eligible for free meals.

6. 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?

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 even if the other family moves out.

CUSTODY SITUATIONS

1. 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?

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.

2. 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. May I still claim the boy's meals at the free rate?

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

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

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

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 the applicable 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 an economic unit. 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 by 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 *Part 4D: Questions and Answers.*)

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 is no longer categorically eligible for free meals as a foster child. Due to year-long eligibility, the free eligibility status of a foster child would not change within the year (including up to 30 operating days in the subsequent school year) if the child is adopted. However, for the subsequent school years, an adopted child must now 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 s/he resides.

Child Residing in an Institution or RCCI

A child residing in a non-participating institution but who attends a participating school during the week or a child residing in a participating RCCI 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. If a child is attending a participating boarding school and wishes to apply for meal benefits, s/he is not considered a household of one. Instead, the child's eligibility is determined based on his family's size and income. This also applies to foreign students attending boarding schools.

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 s/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 s/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 s/he resides (i.e., the household hosting the student).

Foster Child

A foster child is a child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act, a child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act, or a foster child who a court has placed with a caretaker household. These provisions only apply to children formally placed in foster care by a State child welfare agency or a court. They do not apply to informal arrangements such as caretaker arrangements or permanent guardianship placements that may exist outside of or as a result of State or court based systems. Whether placed by the State child welfare agency or a court, in order for a child to be considered categorically eligible for free meals, the state must retain legal custody of the child.

A foster child is considered a member of the foster parents' household. The category of "foster child" also includes a child placed with relatives through a formal arrangement by the courts or State child welfare agency. A child is not considered a foster child if placed with relatives informally instead of through court or State intervention.

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

Family members not living with the household for an extended period of time are not usually considered household members. However, any member of the armed services who is activated or deployed in support of any military combat operation is counted as a household member. Any money made available by them or on their behalf for the household is included as income to the household with the exception of combat pay, as discussed below under Income Exceptions-Military Benefits-Combat Pay.

C. DETERMINING HOUSEHOLD 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, and commissions;
 - Net income from self-owned business and farms; and
 - Strike benefits, unemployment compensation, and worker's compensation.
- Welfare/child support/alimony
 - Public assistance payments/welfare benefits (e.g., TANF, General Assistance/General Relief); and
 - Alimony or child support payments.

Note: Benefits under SNAP and FDPIR are not counted as income.

- Retirement/disability benefits
 - Pensions, retirement income, veterans' benefits;
 - Social security;
 - Supplemental security income; and
 - Disability benefits.
- Any other income
 - Net rental income, annuities, and net royalties;
 - Interest and dividend income;
 - Cash withdrawn from savings;
 - Income from estates, trusts and/or investments;
 - Regular contributions from persons not living in the household; and
 - 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 for which the application is filled out or for 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

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.

The LEA must determine the period of time any earnings are received for seasonal workers as well as the amounts and sources. Seasonal workers include those with annual employment contracts but who may choose to have their salaries paid over a shorter period of time. This includes school employees. The LEA must determine the full amount of income available to such workers contractually on an annual basis and convert all income sources to annual amounts. This treats these employees in the same manner as employees who choose to have their salaries paid over the full year.

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 must not be reduced by the amount of the business loss. If income from self-employment is negative, it should be listed as zero.

Military Benefits

Benefits paid directly to the service person 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. Combat Pay is excluded as discussed below under *Income Exclusions - Military Benefits - Combat Pay*.

Foster Child's Income

If the household where the foster child resides applies for benefits for their non-foster children, then the foster child's personal income is considered when making an eligibility determination. The foster child's income can be from a part-time job or from any funds provided to the child for his/her personal use. (It is optional for the household to list foster children residing in their care).

Income for a Child Residing in an RCCI or Institutions

Only the income earned by a child from full-time or regular part-time employment and/or personally received by the child while in residence at the RCCI or institution is considered income.

Child's Income

The earnings of a child who is a full-time or regular part-time employee, or who receives income from other sources such as Supplemental Security Income or Social Security, must be listed on the application as 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.

Alimony and Child Support

Any money *received* by a household in the form of alimony or child support is considered income to the receiving household. Any money *paid* by a household in the form of alimony or child support is not excluded as 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 meal 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 benefits under SNAP or FDPIR and some Federal educational benefits;
- Payments received from the Foster Care agency or court 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;
- Value of in-kind compensation, such as housing for clergy and similar non-cash benefits; and
- Occasional earnings received on an irregular basis (not recurring, such as payment for occasional baby-sitting or mowing lawns).

Military Benefits

An in-kind benefit is excluded, such as non-privatized on-base housing, where no cash is provided to the household. Other sources of excluded income related to the military are:

- Family Subsistence Supplemental Allowance (FSSA) - By law, the FSSA is not counted as income in determining eligibility for free and reduced price meals; and
- 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. Housing allowances for households living off-base in the general commercial/private real estate market are counted as income. The exclusion only applies to service members living in housing covered under the Military Housing Privatization Initiative. Additional information about DOD's Military Housing Privatization Initiative, including a list of affected installations, may be found at <http://www.acq.osd.mil/housing/>.
- Combat Pay is excluded if:
 - Received in addition to the service member's basic pay;
 - Received as a result of the service member's deployment to or service in an area that has been designated as a combat zone; and
 - Not received by the service member prior to his/her deployment to or service in the designated combat zone.
- Combat pay as described above is extended to Deployment Extension Incentive Pay (DEIP). DEIP is given to active-duty service members who agree to extend their military service by completing deployment with their units without re-enlisting.
 - This exemption applies only until the service members return to their home station. DEIP payments provided to service members who are not considered deployed are not exempt.

Institutionalized Child's Income

Payments from any source directly received by the RCCI or institution on a child's behalf are not considered as income to the child.

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

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

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.

2. What payments from Federal programs are excluded from consideration as income by legislative prohibition?

The following payments are excluded as income:

- Value of assistance to children and their families under the Richard B. Russell National School Lunch Act, the Child Nutrition Act of 1966, and the Food and Nutrition Act of 2008;
- 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);
- 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 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); and
- Payments received under the Housing and Community Development Act of 1987.

This list is *not* all 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.socialsecurity.gov/OP_Home/cfr20/416/416-app-k.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 contact the State agency when there is a 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.

3. 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?

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.

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

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 zero benefit 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.

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

The child is considered a separate household only in those cases when 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.

6. 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?

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

A. MEMBERS OF ASSISTANCE PROGRAM HOUSEHOLDS

A child who is a member of a household that receives benefits from Assistance Programs (SNAP, TANF, FDPIR) is categorically eligible for free meal benefits. LEAs must give households applying for free and reduced price meals the opportunity to indicate on the application that the children are categorically eligible for free benefits and to provide case numbers either for a child or for any household member.

Categorical eligibility for free meals is extended to all children in a household if any member of the household receives benefits from an Assistance Program.

If a household submits an application for children who were directly certified, the LEA must disregard the paper application. Direct certification takes precedence over an application submitted by the household unless the application identifies other children in the household who were not directly certified.

Documentation for Assistance Programs using an application for meal/milk benefits requires that the household list a case number on the application. LEAs should validate case number(s)/other identifier(s) listed on the application by reviewing direct certification data or contacting local assistance program officials. For the extension of categorical eligibility, validation means a confirmation of an active case number.

B. OTHER SOURCE CATEGORICALLY ELIGIBLE

In order to ensure quick delivery of meal benefits to other source populations, LEAs/schools should have procedures in place with Other Source Categorically Eligible agency officials to ensure the LEA is promptly notified of children meeting this eligibility criterion. On or around the beginning of each school year, LEAs/schools should conduct outreach to Other Source Categorically Eligible agency officials in preparation for the new school year.

Other Source Categorical Eligibility of a child does not convey to other children in the household. If the household of an Other Source Categorically Eligible child submits an application, the appropriate box under other source on the application must be checked.

The school/LEA must then contact the household to determine which child is eligible for free meals under Other Source Categorical Eligibility. Documentation of Other Source Categorical Eligibility is required (excludes foster children, except if through verification) prior to certifying the child's eligibility for free meals.

If the household submits an application with the household's income and has also checked the box for "Other Source Categorical Eligibility", and the LEA or school has not had the opportunity to document the status of the child(ren) through other source liaisons, the LEA must process the application using the income information provided. At such time as the Other Source Eligibility is documented, the application is disregarded (if all children in the household are other source eligible). The application must be retained.

LEAs are encouraged to conduct direct certification with appropriate officials and agencies for Other Source Categorically Eligible Programs. The LEA/school must decide the most expeditious manner in which to confirm/document a child's status under Other Source Categorical Eligibility so that free meal benefits can be provided as soon as possible. For example, direct certification may be accomplished through an electronic method, such as a fax or email of lists of eligible students exchanged between appropriate agency officials and LEA/school. Or an agency may provide a letter to the household which the household, in turn, provides to the school. The procedures for mandatory and voluntary direct certification are the same. When conducting direct certification for Other Source Categorically Eligible Programs, the required documentation depends on the agency providing the information.

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 Other Source Categorically Eligible Program designated officials and the LEA setting out or confirming the manner in which LEA officials would be provided the children's status.

A method of data exchange between an agency and an LEA that does not involve the household is encouraged. 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.

An LEA or school official who has direct knowledge that a child is in another source category may expedite program benefits to the child by completing an application for that child or compiling a list of other source eligible students. As soon as possible, the eligibility determination must be documented by the appropriate agencies.

TRANSFERRING INFORMATION

To ensure that Other Source Categorical Eligible child(ren) (migrant, runaway, homeless, etc.) continue to receive benefits, LEAs are encouraged to share the child's free meal eligibility status with the new LEA when these children move from their jurisdiction if the new location is known. See Section N. *Transferring Eligibility*, in Part 3 of this manual for additional information.

HEAD START AND EVEN START

Children enrolled in Federally-funded Head Start centers are considered categorically eligible for free meals in the school meals/free milk programs. Children enrolled in State funded pre-kindergarten programs with eligibility requirements identical to or more stringent than those used by the Federally-funded Head Start centers are also considered categorically eligible.

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 or similar State programs and must be at the pre-Kindergarten level.

DOCUMENTATION OF PARTICIPATION

Documentation of a child's participation in a Federally-funded Head Start or Even Start or similar State programs 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:

- Statement of enrollment in Head Start or Even Start; or
- List of children participating in Head Start or Even Start; and
- For Even Start, confirmation that the child has not yet entered Kindergarten.

MIGRANT EDUCATION PROGRAM

A child is considered categorically eligible if s/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, regional or local Migrant Education Program (MEP) director or coordinator, or the local educational liaison.

The basic definition of a migrant child for MEP is a child who 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. (Note: minors who move with a spouse or by themselves to perform this work may also qualify.) State educational agencies and local MEP staff are responsible for identifying and maintaining supporting documentation as to who is defined as a 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 an LOA or school district receives MEP funds, a MEP coordinator is usually designated. This may be a Federal program director who 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.

DOCUMENTATION OF MEP ENROLLMENT

LEAs should work directly with their State, regional, or local MEP director or coordinator or homeless liaison, 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:

- Dated list with each child's name, and the signature of the State, regional, or local MEP director, coordinator, or local educational liaison; or
- A letter from a migrant education director, coordinator, or liaison provided by a household that confirms that a child currently meets the definition of migrant under the Elementary and Secondary Education Act.

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 eligibility is acceptable in lieu of a free and reduced price meal application, any application submitted on behalf of the child would be disregarded unless the other children listed on the application are not migrant or Other Source eligible, in which case the LEA has to process the application to determine eligibility for the other children listed on the application.

If the application indicates a child's status as a migrant, and the household has not contacted the school, the school/LEA must check with the migrant coordinator.

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, especially when a new migrant child is identified.

RUNAWAY AND HOMELESS YOUTH ACT

A runaway child 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 State agency becomes aware of other officials who may be administering the RHYA in their State, they should contact the State agency or regional office, as appropriate, for guidance.

The 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 participation in an RHYA-funded program.

The following is a Web site that may assist LEAs in obtaining more information about the operations of the RHYA programs in their State:

- <http://www.acf.hhs.gov/programs/fysb/programs/runaway-homeless-youth>

For further information on FYSB, see their web site at:

- <http://www.acf.hhs.gov/programs/fysb>

DOCUMENTATION OF RUNAWAYS' RHYA PARTICIPATION

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

- Child's name or a list of names of participating children;
- Effective date(s); and
- Signature of the school district's homeless liaison or other appropriate officials.

Because direct certification 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 or other appropriate officials. If an application is submitted for a runaway child participating in an RHYA program with the box checked for runaway, the child must receive free meal benefits.

MCKINNEY-VENTO HOMELESS ASSISTANCE ACT

A child is considered homeless if s/he is identified as lacking a fixed, regular, and adequate nighttime residence under the McKinney-Vento Homeless Assistance Act by the LEA liaison, or by the director of a homeless shelter. If the LEA or State agency becomes aware of other officials who may be administering the homeless assistance act under the McKinney-Vento Act in their State, they should contact the State agency 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, or are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations;
- Children and youths who 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 LEA’s homeless liaison.

DOCUMENTING FREE MEAL ELIGIBILITY FOR HOMELESS CHILDREN

Acceptable documentation that the children are homeless is obtained from the LEA 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
- Signature of the LEA 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 the McKinney-Vento Homeless Assistance Act. In these cases, the household size and income of the host family are not taken into consideration in determining the free meal eligibility for the child(ren) designated as homeless by the LEA 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. LEA 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 LEA liaison, even when the child is included on the host family's free and reduced price meal application.

FOSTER CHILD

A foster child is a child whose care and placement is the responsibility of a State or local welfare agency or who is placed by a court with a caretaker household. This applies only to foster children who are formally placed by the State welfare agency or court. This does not apply to informal arrangements such as caretaker arrangements or to permanent guardianship placements that may exist outside of or as a result of State or court based systems. A child may still be considered a foster child if placed with relatives provided the placement is made by the State or local foster care system or courts. The State must retain legal custody of the child --whether placed by a welfare agency or a court -- in order for a child to be considered categorically eligible for free meals.

A foster family may include their foster child on the same household application that includes their non-foster children. This will streamline the application process and may help the foster family's non-foster children qualify for free or reduced price meals based on household size and income.

DOCUMENTING FREE MEAL ELIGIBILITY FOR FOSTER CHILDREN

LEAs are encouraged to establish formal mechanisms with State and local foster care agencies and courts to receive information directly from these agencies to facilitate certification for free meals for foster children. LEAs and foster care agencies or courts should have a written agreement between the agency or court and the LEA setting out or confirming the manner in which LEA officials would be provided the children's status.

Documentation can be submitted by an appropriate State agency or local court (direct certification):

- Electronic/computer match directly to the LEA or other child nutrition program institution indicating the status of the child as a foster child without further application;
- LEAs can accept a State or local agency's or court's letter confirming the child's status as a foster child submitted by the household; or

- Foster parents may complete an application and check the appropriate box indicating the child’s status as a foster child. No further documentation is required (the application is subject to verification).

C. DURATION OF CATEGORICAL ELIGIBILITY

Since households are not required to report changes in income or household size during the school year, households are also 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 Part 3 Section K: *Changes in Household Circumstances*.

D. QUESTIONS AND ANSWERS

1. A child who has been certified homeless by the liaison 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 which had the option of including him on their application for meal benefits. 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?

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 operating days in the next) regardless of where he is living.
- The host family can include the child if they apply for benefits while the child is living with them and, if he moves out of the home, 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 increase their benefits.

2. 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?

Although 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 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.

3. Does the categorical eligibility status of a homeless student remain in effect for the entire school year even if the homeless student secures permanent housing and continues to reside in the same SFA?

Yes. A homeless child remains eligible for free meals for the current school year, plus up to 30 operating days in the subsequent school year, even if that child secures a permanent residence (e.g., returns home) at some point during the current school year.

4. Does the categorical eligibility status of a homeless student remain in effect for the entire school year even if the homeless student secures permanent housing but now attends a school in a different LEA?

The new LEA may accept the eligibility determination for students provided by the former LEA as described in *Part 3 Section O: Processing Applications - Restrictions*. However, if the LEA does not elect to accept the eligibility determination from the prior LEA, then the household is required to reapply for benefits with the new LEA. The homeless coordinator may still make a determination that the student is “homeless” and thus eligible for free meal benefits even if the student is considered to have a permanent residence (not with his/her family). If the student’s status is not designated as homeless, the household where the student resides must apply for meal benefits based on household size and gross income.

5. Is a child considered a foster child if placed in a relative’s home?

Provided a child is placed in a relative’s home by a State child welfare agency or court system, the child is considered a foster child and eligible for free meals. Informal arrangements among relatives do not qualify a child as a foster child and thus the child is not categorically eligible for free meals. Whether placed by the state welfare agency or a court, in order for a child to be considered categorically eligible for free meals, the State must retain legal custody of the child.

6. Does a foster child's categorical eligibility extend to other children in the household the same as with Assistance Programs (SNAP, TANF or FDPIR)?

No. A foster child's eligibility status for free meals does not extend to other children in the household.

7. Is the direct certification process required for a foster child and what documentation is required to verify a child's status as a foster child?

Direct certification is not required for foster children; however, LEAs and other child nutrition institutions are strongly encouraged to establish formal mechanisms with State and local foster care agencies or the courts to receive information directly from these agencies to facilitate certification for free meals for foster children. Documentation may consist of welfare agency or court documents stating that the courts have taken legal custody of a child and s/he has been placed in the foster care system or, if appropriate, a list of children in foster care from the welfare or court system is sufficient.

8. What if one of the children listed on an income application is checked as a foster child?

Since foster children are categorically eligible for free meals, the LEA notes the foster child's free meal status and then must determine the eligibility status of other children listed on the application based on household size and income. The foster child may be included on the application (at the household's discretion) as a household member along with any personal income s/he may have.

9. Is direct certification required for children in Head Start, migrant, runaway or homeless programs?

Direct certification is not a requirement for these programs but is strongly encouraged.

10. An application is submitted indicating a child is in one of these categories: Head Start, Migrant, Runaway or Homeless (Other Source Categorically Eligible). Is additional documentation needed?

Yes. Additional documentation from appropriate agency officials is required to certify that a child participates in one of these programs (this does not include foster children).

PART 6: DIRECT CERTIFICATION FOR ASSISTANCE PROGRAMS

A. GENERAL

Note: This section only discusses direct certification for Assistance Programs. Other Source Categorically Eligible children, such as homeless children identified by the school district's homeless liaison, are processed using procedures similar to direct certification. Those procedures are found in Part 5 of this manual.

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

Eligibility for free meals is extended to all children in a household if one member has been directly certified as eligible under the Assistance Programs. These children are also considered directly certified. LEAs are encouraged to take appropriate steps to identify these children who are part of the family but were not identified through direct certification through available means, which may include, but are not limited to, the use of school district enrollment records (§245.2 *documentation* (2)(iii)).

During the carryover period, categorical eligibility status is extended to any newly enrolled children who are members of a household with one or more members who were directly certified under Assistance Programs (§245.6 (c)(2)).

Because children who are directly certified are determined eligible based on documentation received from an Assistance Program, they are not subject to verification.

B. MANDATORY DIRECT CERTIFICATION WITH SNAP

All LEAs must directly certify children who are members of households receiving SNAP benefits.

METHOD OF DIRECT CERTIFICATION

While other Assistance Programs may use a data matching technique, direct certification with SNAP must use an automated data matching technique between the SNAP office and the State agency and/or the LEA/school to compare the student enrollment records and the SNAP benefit recipient records. This automated data matching technique will most likely be completed by using State/Central-level matching or Local/LEA-level matching.

LETTER METHOD

Although SNAP agencies may continue to provide letters to families as a secondary method along with use of an automated system (the additional notification to families would help to ensure that they were aware of their children’s categorically eligibility if the children were not matched during a data exchange), State agencies and LEAs can no longer use the “letter method” as the sole method of direct certification for SNAP. For example, the SNAP household is no longer required to provide the LEA with a SNAP letter notifying the household of eligibility for free meal benefits. This restriction only applies to direct certification activities with SNAP. (See below for use of the letter method for TANF/FDPIR.)

FREQUENCY OF DIRECT CERTIFICATION

LEAs must conduct direct certification with SNAP at least three times during the school year. More frequent direct certification efforts are permissible and encouraged. The efforts must be made at a minimum:

- At or around the beginning of the school year (i.e., July 1);
- Three months after the beginning of the school year; and
- Six months after the beginning of the school year.

Subsequent direct certification efforts are required for children who were not initially directly certified and who are currently determined to receive reduced price or paid meals. If the LEA has the capability, the status of any newly enrolled child must be checked for SNAP eligibility at the time of enrollment. If this is not possible, the household must be provided with an application so that the child’s benefits are not delayed until the next scheduled direct certification update. LEAs choosing to use the *Effective Date of Eligibility flexibility* to reduce delays in program enrollment should refer to Part 7.

ZERO SNAP BENEFIT HOUSEHOLDS

Some households may be eligible for “zero benefits” and the law restricts categorical eligibility for free school meals based on SNAP participation to children who are members of a household receiving assistance under SNAP. Therefore, a child who is a member of a household that is receiving “zero benefits” from SNAP is not categorically eligible for free meals, unless the child is categorically eligible for another reason.

For the purposes of direct certification, State agencies must ensure that SNAP matches do not identify children as categorically eligible for free meals when the children are members of a household eligible for zero SNAP benefits. SNAP defines benefits as allotments issued on electronic benefit transfer (EBT) cards, or other means approved by the Secretary, that can be used to purchase food at authorized retail food stores.

SAs must work with their counterparts who administer SNAP to assure that direct certification matching only identifies children as categorically eligible when they are in households that actually receive SNAP benefits. Any State agency that has included children who are members of a household eligible for zero SNAP benefits in their direct certification matching must ensure that their matching process is revised to no longer identify these children as categorically eligible.

C. DIRECT CERTIFICATION WITH TANF AND FDPIR

Although not required, LEAs are encouraged to conduct direct certification with the TANF program and FDPIR. Direct certification with these programs may use either a data matching technique or the letter method. If LEAs conduct direct certification with TANF and/or FDPIR agencies, there is no requirement on how frequently the contacts are made. For these programs, direct certification contact should be at or near the beginning of the school year, July 1, as defined in 7 CFR 210.2. LEAs choosing to use the *Effective Date of Eligibility flexibility* to reduce delays in program enrollment should refer to Part 7.

D. REQUIRED DOCUMENTATION

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

- Names of children or any household member currently certified to receive benefits from Assistance Programs;
- A statement certifying that each child is a member of a household where someone receives Assistance Program benefits;
- At least one piece of identifying information matching each child with a child attending a particular school. Examples of identifiers include:
 - Children's birth dates
 - Addresses
 - Parents' names
 - Child's social security number, if available
 - Last 4 digits of the social security number of the person signing an application, if available
 - Gender
 - Other identifiers
- Date; and
- Signature of an official of the Assistance Program.

For computer matches which may not include the official's original signature, sufficient documentation must include correspondence or a written agreement between the Assistance Programs office and the LEA that sets out or confirms the manner in which LEA officials would be provided the children's SNAP, 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.

E. NOTIFICATION

The LEA must notify the household about eligibility established through direct certification. The notification must include the following information:

- The child is eligible for free meal benefits;
- No further application is necessary;
- If applicable, an explanation of extended eligibility and how to notify the LEA of any additional children in the household; and
- How to notify the LEA if free meal benefits for directly certified children are not wanted.

This notification must also be provided to households with children directly certified through the letter method or through contacts with officials such as the LEA's homeless liaison or a foster care agency.

LEAs must ensure that all households 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 who were already determined eligible through direct certification are not required to distribute application materials to households in which all children were determined eligible through the direct certification process.

Notification of a child's free meal eligibility through direct certification may be done through e-mail if the LEA has an e-mail address for a parent or guardian.

AGE OF DOCUMENTATION

LEA officials must obtain from Assistance Program officials the most current certification information available.

F. 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.

G. EXPIRATION OF CATEGORICAL ELIGIBILITY

Because of year-long duration of eligibility, households are no longer required to report changes in their categorical eligibility status. Further, if a subsequent direct certification contact indicates a child is no longer receiving SNAP or other benefits, no change is required.

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 (§245.6a (j)).

H. 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 it is required by an 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.

Special provision schools must retain base year direct certification data and applications for a minimum of 3 years after a new base year is established.

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: EFFECTIVE DATE OF ELIGIBILITY DETERMINATIONS

A. GENERAL

Effective Date of Eligibility Determinations is a flexibility option available to LEAs processing applications or determining eligibility through direct certification. LEAs using this flexibility must do so consistently for all children in all participating schools and Programs.

B. APPLICATIONS

Children are generally certified eligible for free or reduced price meal benefits on the date the household application is approved. However, LEAs have flexibility concerning the effective date of certification for NSLP, SBP and SMP benefits. If an LEA chooses, it could establish the date of submission of an application as the effective date of eligibility, rather than the date the official approves it. This flexibility extends to the Child and Adult Care Food Program and the Summer Food Service Program, as applicable.

Refer to SP 11-2014, *Effective Date of Free or Reduced Price Meal Eligibility Determinations*, for more information.

C. DIRECT CERTIFICATION

The effective date of eligibility determinations is available to LEAs when determining the date of eligibility for children who are directly certified to receive free meals or free milk in the NSLP, SBP, and SMP.

The effective date of eligibility for free school meal or milk benefits is the date of the automated data matching file (or benefit recipient file from another agency) which first identifies the student as eligible for direct certification, rather than the date the LEA accesses and processes the automated data matching file into their local point of service (POS) system. To be used for this purpose, the data file must be generated and received by the LEA in the current school year. Automated data matching is the only method of direct certification acceptable for SNAP.

Letter method and lists or other forms of documentation may be used to directly certify children as members of TANF and FDPIR households, as well as Other Source Categorically Eligible Programs. LEAs using this flexibility may consider the effective date of eligibility for free school meal or milk benefits to be the date the household or appropriate State or local agency submitted the letter, list, or other form of documentation to the LEA. The flexibility in determining the effective date of eligibility also applies to the letter method of documentation from SNAP.

If categorical eligibility is based on SNAP, TANF or FDPIR, the extended eligibility provision in Part 5A also applies.

Refer to SP 51-2014, *Eligibility Effective Date for Directly Certified Students*, for specific examples using this flexibility.

D. QUESTIONS AND ANSWERS

1. Is State agency notification required if an LEA chooses to use this flexibility?

LEAs must notify their State agency upon electing to implement this flexibility.

2. What documentation is required when using this flexibility?

LEAs using this flexibility for direct certification must document the effective date used, such as a date stamp to document the date received for lists or letters from other agencies, or the documented and traceable run date of automated match files or recipient benefit files from another appropriate agency. This includes children who are extended eligibility because they are members of the same household as a student identified as receiving SNAP, TANF or FDPIR benefits.

A date stamp or another method to document the date the application was submitted must be used when this flexibility is applied to the application process.

3. Do LEAs have to refund the money paid by or on behalf of a student for a reimbursable meal or milk during the period from the free meal eligibility effective date through the date the direct certification is actually implemented?

LEAs must refund any money paid by or on behalf of the child for a reimbursable meal or milk during the period from the free meal eligibility effective date through the date the direct certification is actually implemented at the local school, including forgiving accrued debt, for any meals or milk adjusted to free due to the change in effective date. The LEA can only claim those meals or milk at the free reimbursement rate if the student is given a refund or the debt is discharged.

PART 8: CONFIDENTIALITY/DISCLOSURE

A. GENERAL

The issues of privacy and confidentiality of personal data are complicated as well as sensitive. Before developing State and local disclosure policies, State agencies 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 school foodservice director, in conjunction with any LEA officials 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. The LEA may opt to disclose children's eligibility information to

Medicaid or State Children’s Health Insurance Program (SCHIP) officials if the State agency has not prohibited such disclosure to these health insurance programs and the family does not decline to have their children’s eligibility information released.

PREVENTING OVERT IDENTIFICATION

Unauthorized disclosure or “overt identification” of children receiving free or reduced price meal benefits may be an unintentional consequence of having a food service line where competitive foods are sold and a different food service line for NSLP program meals.

In the same way, schools that have a dual payment system that accepts both cash and electronic payments may overtly identify children through the method of payment.

Schools must ensure, to the maximum extent practicable, that the sale of competitive foods and the method of payment do not inadvertently result in children being identified by their peers as receiving free or reduced price meal benefits.

In addition, schools/LEAs must ensure that children who receive free or reduced price meal benefits are not overtly identified when they are provided additional services under certain programs or activities that are permitted to have access to children’s eligibility information, such as academic support under No Child Left Behind. (See the Disclosure Chart in Part 8C)

LEAs must ensure compliance with disclosure limitations in this Part 8L (reference NSLA 9(b)(10) and regulations found at 7 CFR Part 245.8 and SP 45-2012 available at <http://www.fns.usda.gov/sites/default/files/SP45-2012os.pdf>).

B. AGGREGATE DATA

The LEA may disclose aggregate data 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 the 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 (e.g., release of data about a specific classroom 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 State agency for further guidance.

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 local education agency	Eligibility status only	Prior notice and consent not required
Local education programs	NO eligibility information, unless parental consent is obtained	Parental consent
Medicaid or the State Children’s Health Insurance Programs (SCHIP), 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
State health programs other than Medicaid/SCHIP, administered by a State agency or local education agency	Eligibility status only	Prior consent not required
Federal health programs other than Medicaid/SCHIP	NO eligibility information, unless parental consent is obtained	Parental consent
Local health program	NO eligibility information, unless parental consent is obtained	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

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 agencies, LEAs, and schools must ensure that data systems, records, and other means of accessing a student's eligibility status are limited to officials directly connected with administration or enforcement of a Federal or State program or activity. This includes Federal, State, or local program operators responsible for the ongoing operation of the program or activity, or responsible for program compliance.

Eligibility information cannot be made available to all school officials. For example, access must be limited to a student's teachers who are directly responsible for the administration of a Federal education program, e.g., No Child Left Behind (NCLB), or who are providing tutorial or other assistance under NCLB. Teachers, guidance counselors, principals, etc. who are not providing such assistance under the appropriate statutory or regulatory requirements cannot have access. On-line data systems must have a masking or de-identification capability to prevent unauthorized access to free or reduced price eligibility status.

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 only to enroll eligible children in State Medicaid or SCHIP.

E. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

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" relating to the administration or enforcement of a Federal education program or 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 Part 8, Section I: *Agreements/Memoranda of Understanding*).

F. NO CHILD LEFT BEHIND

No Child Left Behind (NCLB) is a Federal education program. Therefore, 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 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 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 would be protected from unauthorized uses and third-party disclosures, as well as include a statement of the penalties for misuse of the information.

G. FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

The Federal Department of Education has established that education records are under the purview of the Family Educational Rights and Privacy Act (FERPA). However, for the school meals programs and milk program, the restrictions imposed by section 9(b)(6) of the NSLA apply, not FERPA.

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;
- The information will be used to facilitate the enrollment of eligible children in a health insurance program or other programs; and
- 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: Prototype Application* for a link to 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 use and disclosure; 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 the child's eligibility information;
- Information that will be disclosed, specifying 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;
- 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 rather than State or Federal 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 or the basis of eligibility (e.g., SNAP eligibility or income level), 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;
- Indicate that failing to sign the consent statement will not affect eligibility for or participation in 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. 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.

M. QUESTIONS AND ANSWERS

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

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.

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

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. Aggregate data may be disclosed provided that it doesn't allow for individual student identification.

3. May the LEA disclose eligibility information to other Child Nutrition Programs?

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 an SFSP administered by a parks and recreation agency.

4. Who are persons "directly connected" to the administration or enforcement of a program?

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, as well as to persons directly connected with the Comptroller General Office or law enforcement for an authorized activity.

5. Who are persons “directly connected” with the administration of State Medicaid and SCHIP?

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.

6. What eligibility information may an LEA disclose to means-tested nutrition programs?

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.

7. Who is responsible for making the decision whether to disclose children’s eligibility status and/or to disclose other personal information?

Whether or not to disclose children’s eligibility information is a local decision that should be made by the school foodservice director in conjunction with LEA officials. 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 State agency/LEA decision. Both the State agency and LEA must agree to disclose children’s information to Medicaid and SCHIP.

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

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.

9. Can the State agency enter into a Memorandum of Understanding for all LEAs for disclosing information to Medicaid/SCHIP?

No. Each LEA must be given the opportunity to decline providing information to Medicaid/SCHIP.

10. How do I know who to contact for more information regarding Medicaid and SCHIP?

For State and Federal Medicaid, visit: <http://www.medicaid.gov/>. For SCHIP, visit: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Childrens-Health-Insurance-Program-CHIP/Childrens-Health-Insurance-Program-CHIP.html>.