

## Policy Statement for Free & Reduced Price Meals

The \_\_\_\_\_ School Food Authority, hereafter called the SFA, has entered into an agreement to participate in the National School Lunch program and/or the School Breakfast Program, the Seamless Summer Option, the After School Snack Program or to provide free milk under the Special Milk Program, and accepts responsibility for providing free and reduced price meals and free milk to eligible children in the schools under its jurisdiction **each school day.**

The School Food Authority assures the Agency of Education, Child Nutrition Programs, hereafter called CNP, that the following policy with respect to determining the eligibility of children for free and reduced price school meals will be uniformly implemented in all National School Lunch Programs and School Breakfast Programs under its jurisdiction, as well as free milk in the Special Milk Program.

### I. SFA Responsibilities

In fulfilling its responsibilities, the School Food Authority agrees:

- A. To name the official or officials designated by the SFA to make eligibility determinations on its behalf for free and reduced price meals or for free milk;
- B. To assure that for children who are not categorically eligible for free or reduced price meal benefits the SFA will determine eligibility for free or reduced price meals or free milk in accordance with the current Income Eligibility Guidelines;
- C. To indicate specific procedures the SFA will use in accepting applications from families for free and reduced price meals or for free milk. Additionally, the SFA must include the specific procedures for obtaining documentation for determining children's eligibility through direct certification, in lieu of an application. SFAs shall also provide households that are directly certified with a notice of eligibility, as specified in §245.6(c)(2) and shall include in their policy statement such a notice;
- D. To provide a description of the method or methods to be used to collect payments from those children paying the full price of the meal or milk, or the reduced price of a meal, which will prevent the overt identification of the children receiving a free meal or free milk or a reduced price meal;
- E. **To provide an assurance that the school will abide by the hearing procedure set forth in §245.7 and the non-discrimination practices set forth in §245.8;**
- F. To serve meals free to children from families whose income is at or below the free income level in the current Income Eligibility Guidelines, to children from 3SquaresVT households or from Reach-Up households that provide a case number on the application and to children who are categorically free as indicated in the Federal Regulations 7 CFR 245.6 and Income Eligibility Guidance; and



- G. To serve meals at a reduced price to children from families whose income is at or within the income level in the current Income Eligibility Guidelines for reduced price meals. The price for lunch shall not be more than \$.40, breakfast shall not be more than \$.30, and after-school snack shall not be more than \$.15.

Effective July 1, 2008, students in Vermont eligible for reduced price meals will not be charged for breakfast. A state reimbursement of \$.30 per meal will be added to the claim for reimbursement. Effective July 1, 2013, students in Vermont eligible for reduced price meals will not be charged for lunch. A state reimbursement of \$.40 per meal will be added to the claim for reimbursement.

## II. SFA Operation of the School Food Service Program

The SFA agrees to operate its school food service programs as follows:

### A. Non-Discrimination –

School Food Authorities and schools participating in the National School Lunch Program, School Breakfast Program or Special Milk Program shall not discriminate on the basis of race, color, national origin, sex age or disability.

The State Agency and the SFA shall ensure there are no barriers for participation in our Programs for Limited English Proficient (LEP) families and that State agencies and SFAs are required to communicate with parents and guardians in a language they can understand through the certification and verification processes.

The SFA shall take all actions that are necessary to ensure compliance with the following nondiscrimination practices for children eligible to receive free and reduced price meals or free milk:

- 1) The names of the children shall not be published, posted, or announced in any manner;
- 2) There shall be no overt identification of any of the children by the use of special tokens or tickets or by any other means;
- 3) The children shall not be required to work for their meals or milk;
- 4) The children shall not be required to use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance or consume their meals or milk at a different time;
- 5) When more than one lunch or breakfast or type of milk is offered which meets the requirements prescribed in § 210.10, § 220.8 or the definition of *Milk* in § 215.2 of this chapter, the children shall have the same choice of meals or milk that is available to those children who pay the full price for their meal or milk;
- 6) School food authorities shall use the application form and letter template to prepare the notice or cover letter sent to parents/households as provided by the Agency of Education. In addition, school food authorities shall also use the provided letter templates for notification of benefits letters and verification communications. Use of any other documents requires prior approval by the state agency.

## **B. Anonymity and Accountability –**

School food authorities shall establish procedures to collect money from children who pay for their meals and to account for the number of free, reduced price and full price meals served at the point of service, or the number of cartons of free and full price milk served. The procedures indicated in Attachment 2 will be used in order that no other child in the school or anyone who does not need to know for program purposes, will consciously be made aware by such procedure, of the identity of the children receiving free or reduced meals or free milk.

## **III. SFA Administration of the Eligibility Process**

The SFA agrees to administer the eligibility process as follows:

### **A. Notice to Parents**

At the beginning of each school year, and whenever there is a change in eligibility criteria, each SFA must send to the parent or guardian in each household a letter as provided by the Agency of Education Child Nutrition Programs, including a form on which to make application for free or reduced price meals. The letter shall indicate how the household may apply for benefits. Any modifications to the letter template must be reviewed and approved by the State Agency prior to distribution.

### **B. Public Release**

The media release will be distributed by the State Agency annually describing how families may apply for benefits and the current Income Eligibility Guidelines. New SFAs will be required to distribute a public release announcing their sponsorship of the program.

The local unemployment office and area employers contemplating large layoffs will be told of the eligibility criteria for free and reduced price meals and free milk and other information supplied in the letter to parents/households.

### **C. Applications**

Parents/guardians in households will be asked to submit one application per household to the approving official(s). Applications or 3SquaresVT or Reach-Up documentation may be submitted at any time during the year. Families/guardians enrolling a new student in the school during the school year for the first time must be given an application.

A student's eligibility will transfer from one school to another. The school must collect the documentation from the previous school.

Parents or guardians must be given notification of the eligibility determination within 10 working days of receipt of the application. The SFA must use the notification template provided by CNP. The service of free or reduced price meals or free milk will begin immediately upon determining eligibility.

Parents/guardians in households must be informed in writing of the reason(s) for denial of their application. They must be advised of the Hearing Official and the Hearing Process.

## **D. Direct Certification**

SFAs must access the Direct Certification List a minimum of three times per year; however, it is strongly recommended that the Direct Certification List be accessed from the student census data system each month. At the beginning of each school year, the SFA must provide households with notification that their child/children in the household are eligible for free meals through Direct Certification and that no application for benefits will be required.

## **E. Categorical Eligibility**

Households must also be advised that a foster child is categorically eligible for free meals and may be included as a member of the foster family if the foster family chooses to apply for benefits for other children, and an explanation that including children in foster care as household members can help other children in the household qualify for free or reduced price meals. If the foster family is not eligible for free or reduced price meal benefits, this does not prevent a foster child from receiving free meal benefits.

Households with children who are categorically eligible under Other Source Categorically Eligible Programs, including Migrant and Homeless children, should contact the school for assistance in receiving benefits and mark the application in the appropriate box.

## **F. Special Provisions**

Special provision options are available to SFAs/Schools with State Agency approval and allow household applications to be collected less frequently. These options are:

**PROVISION 1** - This Provision reduces application burdens by allowing free eligibility to be certified for a 2 year period. In schools where at least 80 percent of the children enrolled are eligible for free or reduced price meals, annual notification of program availability and certification of children eligible for free meals may be reduced to once every 2 consecutive school years. All other households must be provided a meal application and are allowed to apply for meal benefits each school year. There is no requirement to serve meals at no charge to all students. Schools must continue to record daily meal counts of the number of meals served to children by type and category (F, R and P) as the basis for calculating reimbursement claims.

**PROVISION 2** – This provision reduces application and meal counting burdens. Schools may not charge students for meals at any time. During the Base Year (year 1) the free and reduced price process must be followed, including verification of applications. In the base year schools must count meals by category (F, R, and P). In subsequent years the verification process is not required. In the subsequent 3 years reimbursement is based on claiming percentages established in the base year.

**PROVISION 3** – This process reduces application and meal counting burdens. Schools may not charge students for meals at any time. During the base year the free and reduced price process, including verification, must be followed. During subsequent years, verification is not conducted. Schools must count meals by category (F, R, and P) during the base year. It allows schools to simply receive the same level of Federal cash and USDA Foods assistance each year, with some adjustments, for a 4 year period. For each

of the 4 years, the level of Federal cash and USDA Foods support is adjusted to reflect changes in enrollment and inflation.

COMMUNITY ELIGIBILITY PROVISION – This process reduces application and meal counting burdens. Schools with 40% or more of their students certified as free eligible through Direct Certification may participate. Schools may not charge students for meals. Identified student percentages are determined by April 1 of the prior year. Reimbursement is determined by the Identified Student Percentage and the current USDA multiplier. This program operates for a 4 year period.

## **G. Hearing Procedure**

A family may appeal from a decision made by the SFA with respect to an application the family has made for free or reduced price meals or for free milk, and (2) The SFA can challenge the continued eligibility of any child for a free or reduced price meal or for free milk. The hearing procedure shall provide for both the family and the SFA:

- 1) A simple, publicly announced method to make an oral or written request for a hearing;
- 2) An opportunity to be assisted or represented by an attorney or other person;
- 3) An opportunity to examine, prior to and during the hearing, any documents and records presented to support the decision under appeal;
- 4) That the hearing shall be held with reasonable promptness and convenience, and that adequate notice shall be given as to the time and place of the hearing;
- 5) An opportunity to present oral or documentary evidence and arguments supporting a position without undue interference;
- 6) An opportunity to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;
- 7) That the hearing shall be conducted, and the decision made, by a hearing official who did not participate in making the decision under appeal or in any previously held conference;
- 8) That the decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record;
- 9) That the parties concerned, and any designated representative shall be notified in writing of the decision of the hearing official;
- 10) That a written record shall be prepared with respect to each hearing, which shall include the challenge or the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the parties concerned of the decision of the hearing official; and

11) That the written record of each hearing shall be preserved for a period of 3 years and shall be available for examination by the parties concerned or their representatives at any reasonable time and place during that period.

(a) Continuation of benefits. When a household disagrees with an adverse action which affects its benefits and requests a fair hearing, benefits shall be continued as follows while the household awaits the hearing and decision:

- i. Households that have been approved for benefits and that are subject to a reduction or termination of benefits later in the same school year shall receive continued benefits if they appeal the adverse action within the 10 day advance notice period; and
- ii. Households that are denied benefits upon application shall not receive benefits.

#### **H. Records**

The SFA shall maintain a file of the following records for three years after the end of the fiscal year to which they pertain

1. All applications returned, and documentation of action taken;
2. Record of all appeals, and challenges, and their disposition.

#### **I. Verification**

Verification is required for program participation in the National School Lunch Program and the School Breakfast Program. Each SFA shall designate a verification official to complete the activities for the entire SFA.

The SFA shall follow the program regulations and guidance provided by the State Agency for the verification of applications and will conduct verification in accordance with program regulations by November 15 each year and maintain all records documenting the verification process. The annual Verification Report shall be completed and submitted by December 15<sup>th</sup>.

#### **J. Amendments to Policies**

Unless there is a substantive change, the policy statement need not be changed and resubmitted for State Agency approval. Routine changes such as the inclusion of the new income eligibility guidelines do not require resubmission.

The SFA must amend its policy statement for any substantive changes to its free and reduced price policy and include a description of the change. In all cases, the SFA must have an approved policy statement on file at the State Agency that accurately describes its current free and reduced price policies. Amendments must be submitted for approval by the State Agency by October 15. The amendments must be approved prior to implementation.

The amendments must reflect:

- Changes made by the SFA/School (e.g., changes in collection procedures, designation of a new approving/hearing official(s), changes in procedures for

accepting applications, revisions in the letter to households or application for free and reduced price meals/free milk);

- Changes made necessary by laws/regulations;
- Additional information specified by the State Agency.

## Attachments

The SFA must return the signed policy statement with the required attachments.

Required attachments include:

- Attachment 1
- Attachment 2
- Attachment 3
- Notice to Households that accompanies the meal/milk application
- Notice to Households of approval or denial of benefits
- Notice to households chosen for Verification
- Notice to households of adverse action
- Notice of eligibility based on Direct Certification

The attachments are adopted with and considered part of this policy.

## Signature Page

Filed by:

Approved by:

\_\_\_\_\_  
SFA Representative Printed Name

\_\_\_\_\_  
Rosie Krueger, State Director of Child Nutrition Programs

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
SFA Representative Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Email address of SFA representative

### Non-Discrimination Statement:

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint>, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

1. mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
2. fax: (202) 690-7442; or
3. email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

This institution is an equal opportunity provider.

The Agency of Education does not discriminate on the basis of race, color, national origin, creed, marital status, sex, disability, age, gender identity or sexual orientation in its programs and activities.



## Attachment 1

### Money Collection Systems and Point of Sale Systems

In both the money collection system and point of sale system, overt identification of eligible students must be prevented. The point of sale is considered the point in the line where the student has had access to all meal components and the student's reimbursable meal is counted by category – free, reduced or paid.

Collection System	Point of Sale System
<b>Computer/POS System</b>	
<p>1. Student brings money for meals either to pay in the line or to deposit in their computer account. Parents may also deposit funds on-line. Student accounts are debited as they receive their meal by the computer system. Free eligible students have accounts without cash balances, unless a la carte funds are deposited.</p>	<p>A. Student enters PIN, scans an ID card, or scans fingerprint, or enters code in a keypad when they receive a meal or milk. The computer system tallies the meal counts by category.</p>
<b>Ticket-Based Systems</b>	
<p>2. Students buy coded tickets or receive free tickets. All categories are available at the same times and places. No announcement of category is made. Sufficient time and/or locations are available to prevent groups of children in line openly viewing the exchange process. Efforts are made to encourage purchase of tickets by students paying full price.</p>	<p>B. Coded tickets are surrendered when the meal is received. Students must have a ticket to receive a meal.</p> <p>C. B. Long term (weekly) tickets are punched or marked and a tally sheet is used to keep a count of the number of meals by category.</p>
<p>3. Students bring money for meals in an envelope marked with their name. Students eligible for free meals also turn in an envelope. Tickets are distributed in no special order to students in the envelopes.</p>	<p>D. Those who have pre-paid and received a ticket surrender the ticket when they receive a meal. Those with cash pay when they receive a meal, and cash meal counts are kept on a tally sheet or programmed cash register. Pre-pay option is adequately publicized and is convenient. Enough paying students use the option so children using the tickets in the service line are not easily distinguished as free or reduced eligible.</p>
<b>Roster-Based Systems</b>	
<p>4. Students bring money for lunch and a roster or accounting form is marked to indicate the number of meals that have been pre-paid. Sufficient time and/or locations are available to prevent groups of children in line openly viewing the exchange process. Students eligible for free meals are marked as having paid.</p>	<p>E. Children are individually marked off on a check list or an accounting roster as they receive their meal. The checklist is coded so that meal categories can be determined, but are not overt. The checklist may be the same form on which student payments have been entered.</p>
<p>5. Students bring money for meals in an envelope marked with their name. Students eligible for free meals also turn in an envelope. The money is recorded on a roster or accounting form.</p>	<p>F. Children turn in an identification card when they receive a meal. The cards are used to determine a count by category and are sorted by classroom and returned to children for the next day's meal or are available in the cafeteria.</p>

6. All students either pay cash or charge meals at the time they receive them. Full paying or reduced price eligible students are billed accordingly each month. Free students receive no bills.	G. A head count of total meals served is taken at the point of service.
7. No monies are collected because school is operating a non-pricing program, a provision program – Provision 1, 2, or 3, or Community Eligibility Program (CEP).	H. An approved alternative point of sale count is taken and recorded. *

\* Alternative points of sale require *prior written approval by the State Agency.*

## Attachment 2

### SFA/School Data

List each school or site included in the SU/SFA. Indicate the money collection system and point of sale system for each respective site/school from the list in Attachment 1. Indicate how free and reduced price eligible students are not overtly identified if the food service sells items in addition to the school meals, such as a la carte or additional food items. List the approving office for each site. List the name of the verification official for the SU/SFA. Attach additional sheets if necessary.

School/Site Name	Money Collection System	Point of Sale System	Describe how overt identification is prevented during the sale of competitive foods during a meal service.	Approving Officer/Name and/or Title	Verification Official

## Attachment 3

### Meal Application and Data Management Process

1. Describe the process used by the SFA to receive or collect, review, and approve meal applications.
2. Describe the process and frequency for retrieving and updating the Direct Certification List. Indicate how the information is provided to the Food Service Manager or Director.
3. Indicate your SFAs procedures for disclosure of children's free and reduced price or free milk eligibility information. Indicate parties and organizations that you provide Free & Reduced Price Meal eligibility data. Indicate your assurance that the SFA complies with the disclosure requirements established by USDA. Please review the disclosure requirements on the following pages.

**7 CFR 245.6 (f) Disclosure of children's free and reduced price meal or free milk eligibility information to education and certain other programs and individuals without parental consent.**

The State agency or local educational agency, as appropriate, may disclose aggregate information about children eligible for free and reduced price meals or free milk to any party without parental notification and consent when children cannot be identified through release of the aggregate data or by means of deduction. Additionally, the State agency or local educational agency also may disclose information that identifies children eligible for free and reduced price meals or free milk to persons directly connected with the administration or enforcement of the programs and the individuals specified in this paragraph (f) without parent/guardian consent. The State agency or local educational agency that makes the free and reduced price meal or free milk eligibility determination is responsible for deciding whether to disclose children's free and reduced price meal or free milk eligibility information.

**1) Persons authorized to receive eligibility information.** Only persons directly connected with the administration or enforcement of a program or activity listed in paragraphs (f)(2) or (f)(3) of this section may have access to children's eligibility information, without parental consent. Persons considered directly connected with administration or enforcement of a program or activity listed in paragraphs (f)(2) or (f)(3) of this section are Federal, State, or local program operators responsible for the ongoing operation of the program or activity or responsible for program compliance. Program operators may include persons responsible for carrying out program requirements and monitoring, reviewing, auditing, or investigating the program. Program operators may include contractors, to the extent those persons have a need to know the information for program administration or enforcement. Contractors may include evaluators, auditors, and others with whom Federal or State agencies and program operators contract with to assist in the administration or enforcement of their program in their behalf.

**(2) Disclosure of children's names and eligibility status only.** The State agency or local educational agency, as appropriate, may disclose, without parental consent, children's names and eligibility status (whether they are eligible for free or reduced price meals or free milk) to persons directly connected with the administration or enforcement of:

(i) A Federal education program;

(ii) A State health program or State education program administered by the State or local education agency;

(iii) A Federal, State, or local means-tested nutrition program with eligibility standards comparable to the National School Lunch Program (i.e., food assistance programs for households with incomes at or below 185 percent of the Federal poverty level); or

(iv) A third party contractor assisting in verification of eligibility efforts by contacting households who fail to respond to requests for verification of their eligibility.

**(3) Disclosure of all eligibility information in addition to eligibility status.** In addition to children's names and eligibility status, the State agency or local educational agency, as appropriate, may disclose, without parental consent, all eligibility information obtained through the free and reduced price meals or free milk eligibility process (including all information on the application or obtained through direct certification) to:

(i) Persons directly connected with the administration or enforcement of programs authorized under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966. This means that all eligibility information obtained for the National School Lunch Program, School Breakfast Program or Special Milk Program may be disclosed to persons directly connected with administering or enforcing regulations under the National School Lunch or School Breakfast Programs (Parts 210 and 220, respectively, of this chapter), Child and Adult Care Food Program (Part 226 of this chapter), Summer Food Service Program (Part 225 of this chapter) and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) (Part 246 of this chapter);

(ii) The Comptroller General of the United States for purposes of audit and examination; and

(iii) Federal, State, and local law enforcement officials for the purpose of investigating any alleged violation of the programs listed in paragraphs (g)(3) and (g)(4) of this section.

**(4) Use of free and reduced price meal or free milk eligibility information by other programs other than Medicaid or the State Children's Health Insurance Program (SCHIP).** State agencies and local educational agencies may use free and reduced price meal or free milk eligibility information for administering or enforcing the National School Lunch, Special Milk or School Breakfast Programs (Parts 210, 215 and 220, respectively, of this chapter). Additionally, any other Federal, State, or local agency charged with administering or enforcing these programs may use the information for that purpose. Individuals and programs to which children's free and reduced price meal eligibility information has been disclosed under this section may use the information only in the administration or enforcement of the receiving program. No further disclosure of the information may be made.

**(g) Disclosure of children's eligibility information to Medicaid and/or SCHIP, unless parents decline.** Children's free or reduced price meal or free milk eligibility information only may be disclosed to Medicaid or SCHIP when both the State agency and the local educational agency so elect, the parent/guardian does not decline to have their eligibility information disclosed and the other provisions described in paragraph (i) of this section are met. Provided that both the State agency and local educational agency opt to allow the disclosure of eligibility information to Medicaid and/or SCHIP, the State agency or local educational agency, as appropriate, may disclose children's names, eligibility status (whether they are eligible for free or reduced price meals or free milk), and any other eligibility information obtained through the free and reduced price meal or free milk application or obtained through direct certification to persons directly connected with the administration of Medicaid or SCHIP. Persons directly connected to the administration of Medicaid and SCHIP are State employees and persons authorized under Federal and State Medicaid and SCHIP requirements to carry out initial processing of Medicaid or SCHIP applications or to make eligibility determinations for Medicaid or SCHIP.

**(1) The State agency must ensure that:**

(i) The child care institution and health insurance program officials have a written agreement that requires the health insurance program agency to use the eligibility information to seek to enroll

children in Medicaid and SCHIP; and

(ii) Parents/guardians are notified that their eligibility information may be disclosed to Medicaid or SCHIP and given an opportunity to decline to have their children's eligibility information disclosed, prior to any disclosure.

(2) **Use of children's free and reduced price meal eligibility information by Medicaid/SCHIP.** Medicaid and SCHIP agencies and health insurance program operators receiving children's free and reduced price meal or free milk eligibility information may use the information to seek to enroll children in Medicaid or SCHIP. The Medicaid and SCHIP enrollment process may include targeting and identifying children from low-income households who are potentially eligible for Medicaid or SCHIP for the purpose of seeking to enroll them in Medicaid or SCHIP. No further disclosure of the information may be made. Medicaid and SCHIP agencies and health insurance program operators also may verify children's eligibility in a program under the Child Nutrition Act of 1966 or the Richard B. Russell National School Lunch Act.

(h) **Notifying households of potential uses and disclosures of children's eligibility information.** Households must be informed that the information they provide on the free and reduced price meal or free milk application will be used to determine eligibility for free and reduced price meals or free milk and that eligibility information may be disclosed to other programs.

(1) For disclosures to programs, other than Medicaid or SCHIP, that are permitted access to children's eligibility information, without parent/guardian consent, the State agency or local educational agency, as appropriate, must notify parents/guardians at the time of application that their children's free and reduced price meal or free milk eligibility information may be disclosed. The State agency or local educational agency, as appropriate, must add substantially the following statement to the statement required under paragraph (a)(8)(i) of this section, "We may share your eligibility information with education, health, and nutrition programs to help them evaluate, fund, or determine benefits for their programs; auditors for program reviews; and law enforcement officials to help them look into violations of program rules." For children determined eligible through direct certification, the notice of potential disclosure may be included in the document informing parents/guardians of their children's eligibility for free meals or free milk through direct certification.

(2) For disclosure to Medicaid or SCHIP, the State agency or local educational agency, as appropriate, must notify parents/guardians that their children's free and reduced price meal or free milk eligibility information will be disclosed to Medicaid and/or SCHIP unless the parent/guardian elects not to have their information disclosed. Additionally, the State agency or local educational agency, as appropriate, must give parents/guardians an opportunity to elect not to have their information disclosed to Medicaid or SCHIP. Only the parent or guardian who is a member of the household or family for purposes of the free and reduced price meal or free milk application may decline the disclosure of eligibility information to Medicaid or SCHIP. The notification must inform parents/guardians that they are not required to consent to the disclosure, that the information, if disclosed, will be used to identify children eligible for and to seek to enroll children in a health insurance program, and that their decision will not affect their children's eligibility for free and reduced price meals or free milk. The notification may be included in the letter/notice to parents/guardians that accompanies the free and reduced price meal or free milk application, on the application itself or in a separate notice provided to parents/guardians. The notice must give parents/guardians adequate time to respond. The State agency or local educational agency, as appropriate, must add substantially the following statement to the statement required under paragraph (a)(8)(i) of this section, "We may share your information with Medicaid or the State Children's Health Insurance Program, unless you tell us not to. The information, if disclosed, will be used to identify eligible children and seek to enroll them in Medicaid or SCHIP." For children determined eligible through direct certification, the notice of potential disclosure and opportunity to decline the disclosure may be included in the document informing parents/guardians of their children's eligibility for free meal or free milk through direct certification.

(i) **Other disclosures.** State agencies and local educational agencies that plan to use or disclose information about children eligible for free or reduced price meals or free milk in ways not specified in this section must obtain written consent from the child's parent or guardian prior to the use or disclosure. Only a parent or guardian who is a member of the child's household for purposes of the free and reduced price meal or free milk application may give consent to the disclosure of free and reduced price meal eligibility information.

(1) The consent must identify the information that will be shared and how the information will be used.

(2) The consent statement must be signed and dated by the child's parent or guardian who is a member of the household for purposes of the free and reduced price meal or free milk application.

(3) There must be a statement informing parents and guardians that failing to sign the consent will not affect the child's eligibility for free or reduced price meals or free milk and that the individuals or programs receiving the information will not share the information with any other entity or program.

(4) Parents/guardians must be permitted to limit the consent only to those programs with which they wish to share information.

(j) **Agreements with programs/individuals receiving children's free and reduced price meal or free milk eligibility information.**

(1) An agreement with programs or individuals receiving free and reduced price meal or free milk eligibility information is recommended for programs other than Medicaid or SCHIP. The agreement or MOU should include information similar to that required for disclosures to Medicaid and SCHIP specified in paragraph (j)(2) of this section.

(2) The State agency or school food authorities, as appropriate, must have a written agreement with the State or local agency or agencies administering Medicaid or SCHIP prior to disclosing children's free and reduced price meal or free milk eligibility information. At a minimum, the agreement must:

(i) Identify the health insurance program or health agency receiving children's eligibility information;

(ii) Describe the information that will be disclosed;

(iii) Require that the Medicaid or SCHIP agency use the information obtained and specify that the information must be used to seek to enroll children in Medicaid or SCHIP;

(iv) Require that the Medicaid or SCHIP agency describe how they will use the information obtained;

(v) Describe how the information will be protected from unauthorized uses and disclosures;

(vi) Describe the penalties for unauthorized disclosure; and

(vii) Be signed by both the Medicaid or SCHIP program or agency and the State agency or child care institution, as appropriate.

(k) *Penalties for unauthorized disclosure or misuse of information.* In accordance with section 9(b)(6)(C) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(6)(C)), any individual who publishes, divulges, discloses or makes known in any manner, or to any extent not authorized by statute or this section, any information obtained under this section will be fined not more than \$1,000 or imprisoned for up to 1 year, or both.