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Washington Office of Superintendent of
PUBLIC INSTRUCTION
Chris Reykdal, Superintendent

December 22, 2020



Action Required

Due date: Varies



Informational

BULLETIN NO. 097-20 CHILD NUTRITION SERVICES

TO: Educational Service District Superintendents
School District Superintendents
School District Business Managers
School District Food Service Directors
Potential Sponsors of the Summer Food Service Program

FROM: Chris Reykdal, Superintendent of Public Instruction

RE: Disclosure of Free & Reduced-Price Eligibility Information

CONTACT: Elizabeth Beechler, School Meal Programs Supervisor
360-725-6220, elizabeth.beechler@k12.wa.us

PURPOSE/BACKGROUND

The U.S. Department of Agriculture (USDA) confidentiality rules protect student and household information collected for determining free and reduced-price meal eligibility for Child Nutrition Programs. School Meal Program operators are frequently asked to provide student eligibility information, this may be to extend benefits to students from low-income families or to provide additional funding to schools with high populations of students from low-income families. This bulletin provides information about sharing eligibility information according to USDA regulations and confidentiality rules.

Local Education Agencies (LEAs) may disclose student's free and reduced-price eligibility information to programs, activities, and individuals that are specifically authorized access under the National School Lunch Act (NSLA). Eligibility information obtained through collection of free and reduced-price meal applications or direct certification is subject to confidentiality requirements. These requirements also apply to the Special Milk Program (SMP), Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), and the National School Lunch Program's Seamless Summer Option (SSO).

Requirements for Disclosure of Eligibility Information

The National School Lunch Act (NSLA) allows the disclosure of children's eligibility information to persons directly connected with the administration or enforcement of certain programs and activities. Specifically, Local Education Agencies (LEAs) may share a child's name and eligibility status for the purpose of **federal** and **state** education programs, such as Medicaid, other Federal Child Nutrition Programs, and Federal or state-means tested programs.

Local Education Agencies must inform households that the information they provide on their application may be disclosed to other programs. Disclosure requirements also apply to student information obtained through other processes, including direct certification. OSPI Child Nutrition Services (CNS) recommends including the notice of potential disclosure with the letter to households that accompanies the free and reduced-price application. For children who are directly certified, OSPI CNS recommends including the notice of potential disclosure with the document informing households of their child's eligibility through direct certification.

Parental Consent

Disclosure of eligibility information to other programs not outlined in the NSLA requires parental consent. These programs include local programs and activities, such as fees for band, athletics, field trips, or Associated Student Body (ASB).

Parental consent must be obtained annually and prior to disclosure – households must also be able to limit consent to only those programs with which they wish to share information. If a child is directly certified, the local education agency (LEA) must have a system in place to obtain consent from these households before sharing their information.

Prior to disclosure, the LEA must obtain the following information:

- The type of program
- What information is being requested
- Who is making the request; and,
- Why the information is needed

If the eligibility information is to be shared with an outside entity, the LEA must enter into a data share agreement prior to the release of information. OSPI has developed a [Sample Data Share Agreement](#) to assist sponsors with this process.

Authorized Access to Information

Eligibility information may only be shared with persons who "need to know". Even though an individual may be authorized under the NSLA to receive eligibility information, data may only be shared if the information will be used to provide a service or carry out an authorized activity. Within a LEA, access must be limited to those responsible for the administration of a federal

education program or are providing tutorial or other assistance under the educational program. Teachers, guidance counselors, principals, or other school officials who are not providing such assistance under the appropriate statutory or regulatory requirements cannot have access.

Additional Information

- Consent must be obtained annually and cannot be rolled over to future years.
- Disclosure of student eligibility information to a non-custodial parent is not allowed without written consent.
- In cases where eligibility status can be released, how student became eligible may **not** be released.
- Aggregate data may be released without consent, and program operators are encouraged to communicate with requestors to understand exactly what data is needed. Nutrition services staff can easily calculate and release aggregate data.
- Disclosure of free and reduced-price eligibility information for the purpose of extracurricular activities is **not** authorized under the National School Lunch Act (NSLA). Parental consent must be obtained prior to the release of information.

Resources

- [Consent to Share Form | Spanish](#)
- [Disclosure Chart](#) – Outlines when eligibility information may be disclosed and what information may be shared.
- [Free and Reduced-Price Disclosure Reference Sheet](#) - This guide provides information on program requirements and links to requirements and tools for compliance.
- [Confidentiality Requirements of Common Programs](#) - A list, although not all inclusive, of common federal, state, and local education programs consent requirements.

House Bill 1660

In March 2020, the Washington State legislature passed [House Bill 1660](#) with the goal to eliminate costs and barriers to student participation in extracurricular activities. In response to this bill, some districts are requesting free and reduced-price eligibility status to waive fees.

Automatic disclosure of free and reduced-price eligibility information for the purpose of extracurricular activities is **not** authorized under the National School Lunch Act (NSLA). Parental consent must be obtained prior to the release of information. OSPI has created the [Implementing HB 1660 – Nutrition Services Reference Sheet](#) to assist districts with sharing eligibility from the meal application and direct certification, as well as how to utilize the Consent to Share Eligibility form.

INFORMATION AND ASSISTANCE

For questions regarding this bulletin, please contact Elizabeth Beechler, School Meals Programs Supervisor at 360-725-6220 or email elizabeth.beechler@k12.wa.us. The OSPI TTY number is 360-664-3631.

This bulletin is also available on the [Bulletins and Memos](#) page of the OSPI website.

If you would like a printed copy of this bulletin or required application materials, please email cnsupportstaff@k12.wa.us or call 360-725-6200.

Tennille Jeffries
Chief of Staff

T.J. Kelly
Chief Financial Officer

Leanne Eko, RD, SNS
Director, Child Nutrition Services

CR:ln

Assurance of Civil Rights Compliance

The Sponsor hereby agrees that it will comply with: i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); ii. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.); iii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); iv. Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); v. Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131-12189); vi. Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000); vii. All provisions required by the implementing regulations of the Department of Agriculture (USDA) (7 CFR Part 15 et seq.); viii. Department of Justice Enforcement Guidelines (28 CFR Parts 35, 42 and 50.3); ix. Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be

excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA; and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement. x. The USDA non-discrimination statement that 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, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

By accepting this assurance, the Sponsor agrees to compile data, maintain records, and submit records and reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review and copy such records, books, and accounts, access such facilities and interview such personnel as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Sponsor, its successors, transferees and assignees as long as it receives assistance or retains possession of any assistance from USDA.

OSPI provides equal access to all programs and services without discrimination based on sex, race, creed, religion, color, national origin, age, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, disability, or the use of a trained dog guide or service animal by a person with a disability. Questions and complaints of alleged discrimination should be directed to the Equity and Civil Rights Director at 360-725-6162/TTY: 360-664-3631; or P.O. Box 47200, Olympia, WA 98504-7200; or equity@k12.wa.us.