# SNCP Memo #2024-2025-17

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**COMMONWEALTH of VIRGINIA   
Department of Education**

DATE: September 5, 2024

TO: Directors, Supervisors, and Contact Persons Addressed

FROM: Sandra C. Curwood, PhD, RDN, ***Sandy***

## SUBJECT: Disclosure of Free and Reduced Eligibility Information

The Virginia Department of Education, Office of School and Community Nutrition Programs (VDOE-SCNP) recognizes that local education agency (LEA) and school level staff are frequently asked to provide free and reduced eligibility information about individual students and may have concerns about disclosing this confidential information. This memo provides specific guidance regarding the restrictions on the disclosure of a student’s free or reduced eligibility status collected through the Child Nutrition Programs.

### Regulations and Information on Disclosure

LEAs may disclose individual student information only to those persons, including organizations, specifically authorized by the Richard B. Russell National School Lunch Act (NSLA) to have access to children’s eligibility information. The NSLA allows persons directly connected with the administration of certain programs to have access to children’s eligibility information. The disclosure of individual student eligibility information for purposes other than establishing eligibility for school meals generally is not permitted without parental consent. Regulations and resources that detail disclosure information include:

* National School Lunch Act 42 U.S.C. 1758 Section 9(b)(6);
* 7 CFR 245.6 (2) and (f)-(k);
* *2017 Eligibility Manual for School Meals - Section 5: Confidentiality and Disclosure*

### LEA Roles and Responsibilities

The division superintendent is ultimately responsible for maintaining confidentiality and preventing overt identification of children receiving free and reduced-price meals. Written policies and procedures should be in place that follow federal and state regulations on disclosure. The division superintendent must make sure the student data system has a way of masking the free and reduced eligibility status of students to prevent unauthorized access.

Principals and administrators have an active role in protecting and maintaining student confidentiality. Each principal should have written school level procedures to handle inquiries for the confidential information. Eligibility information cannot be made available to all school personnel. There must be a legitimate “need to know” to provide a service or carry out an authorized activity. It is important to note that principals do **not** need to know eligibility information just because they are generally responsible for student welfare. Access must be limited to the person directly responsible for the program or activity that requires the free and reduced eligibility information. Teachers, guidance counselors, principals, or other school officials who are not providing the direct service cannot have access to the information.

### Information for School Nutrition Directors

Student eligibility information must be safeguarded to protect parent/guardian and student confidentiality. School nutrition directors should do the following to ensure eligibility information is protected:

* Be familiar with the disclosure information regulations found in the NSLA.
* Have a policy and procedure in place to ensure student data systems or records containing eligibility information are protected from anyone using the system.
* Have an agreement or Memoranda of Understanding (MOU) for each disclosure request.
* Make sure the agreement/MOU identifies the person receiving the information, how the information will be used, how the information will be protected from unauthorized use and disclosure, and the penalties for unauthorized disclosure.
* Ensure the agreement/MOU is signed by both the LEA official and the receiving entity.

### The MOU

The VDOE-SCNP has created a template agreement/MOU, Attachment A, for school nutrition directors and LEA officials to use. The chart in Attachment A details programs, information that can be disclosed, and the requirement for consent and notice to parents for release of information. A written request to disclose eligibility information should be obtained each time anyone wants access to the information. Each disclosure request must be carefully reviewed to determine if there is a legitimate need for the information to carry out an authorized activity. Directors are also encouraged to provide eligibility information to sponsors of the Summer Food Service Program (SFSP) in their efforts to feed children during the summer months. Prior notice and consent are not required but an MOU should be completed.

LEAs may provide the confidential information to those requestors who do not meet the statutory or regulatory requirements for receipt of the confidential information by requesting and receiving written parental consent. The Sharing of Information with Other Programs form, Attachment B, can be included in either the school packet or the application for meal benefits provided to households at the beginning of each school year. The form allows parents and guardians to consent to the LEA’s disclosure of their child’s eligibility status to receive non-program benefits and services tied to the child’s eligibility to receive free or reduced-price meals.

### Assessment Testing

The National Assessment of Educational Progress (NAEP) and the Commonwealth’s Standards of Learning (SOL) are two assessment programs that can receive children’s names and eligibility status without parental or guardian consent. The NAEP is a federal education program, and the SOL are an assessment program established at the state level. Persons directly connected to the administration of the NAEP and the SOL are authorized recipients of the children’s free and reduced-price meal eligibility status.

The term “persons directly connected” for the purpose of disclosure to assessment programs includes federal, state, and local program operators responsible for their program administration or program compliance. This would also include their contractors. This does not imply that these persons have routine access to participants’ eligibility status. There must be a “need to know” for legitimate assessment purposes.

### Penalties for Improper Disclosure

Improper disclosure includes publishing, divulging, disclosing, or making known in any manner not authorized by federal law, any eligibility information. This includes sharing information between authorized programs when both parties are not the determining agency. For example, an LEA determining official shares free and reduced information with another agency for use with the Child and Adult Care Food Program (CACFP). The CACFP representative then shares the information with the agency that administers the SFSP. Although both programs are authorized under the NSLA, the agency administering the SFSP should directly contact the LEA for the information. The federal penalty for improper disclosure includes a fine of up to $1,000 or imprisonment of up to one year, or both.

### For more Information

For more information, please contact your assigned regional specialist or the SNP policy mailbox via email at [SNPpolicy@doe.virginia.gov](mailto:SNPpolicy@doe.virginia.gov).

### Attachments:

1. Agreement for Disclosure of Free and Reduced-Price Information (Word)
2. Sharing Information with other Programs (Word)

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