SUPERINTENDENT OF PUBLIC INSTRUCTION

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October 27, 2014

( ) Action Required
(x) Informational

MEMORANDUM NO. 054-14 CHILD NUTRITION SERVICES

TO: Educational Service District Superintendents
School District Superintendents
School District Assistant Superintendents for Business and/or Business Managers
School District Food Service Supervisors
Administrators of Select Private Schools
Administrators of Residential Child Care Institutions

FROM: Randy I. Dorn, State Superintendent of Public Instruction

RE: Guidance on the Disclosure of Free and Reduced-Price Information and Eligibility Status

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The purpose of this memorandum is to provide local education agencies (LEAs) updated information and guidance for the disclosure (release/sharing) of free and reduced-price eligibility information and status. Eligibility status refers to eligibility for free and reduced-price meals as well as free milk. Disclosure of eligibility information and status is always an option, not a requirement.

Student and household information collected for the purpose of determining free and reduced-priced meal eligibility for Child Nutrition Programs is protected under US Department of Agriculture (USDA) rules of confidentiality. The information obtained may only be disclosed in certain, very specific situations. The complete law, *7 Code of Federal Regulations Section 245.6* can be found at http://www.fns.usda.gov/sites/default/files/7CFRpart245_2014.pdf. USDA provides additional guidance in the *Eligibility Manual for School Meals* located at http://www.fns.usda.gov/sites/default/files/EliMan.pdf.

Aggregate Data
LEAs may always disclose aggregate free and reduced-price eligibility data when children cannot be identified by the data or by means of deduction. An example of aggregate data is the total number of children eligible for free or reduced-price meals in a school district or individual school.

Need to Know
Although a program or person may be authorized under the National School Lunch Act to receive free and reduced-price eligibility information, there must be a legitimate "need to know" to provide a service or carry out an authorized activity.

Disclosing Eligibility Information and Status
LEAs may disclose children's free and reduced price meal eligibility information to programs, activities and individuals that are specifically authorized access under the National School Lunch Act. The authority to disclose eligibility information depends on the type of program for which the information is being requested, who is requesting the information, and whether or not parental consent is required prior to the release of information. The *USDA Disclosure Chart (Attachment A)* outlines programs and circumstances for disclosing eligibility information. The Disclosure Chart can also be found in the Eligibility Manual for School Meals. The *Confidentiality Requirements of Common Programs* (*Attachment B)* provides a list of common programs and their confidentiality requirements.

Parental Consent Required
When parental consent is required the LEA must obtain written consent from the child's parent or guardian (who is a member of the child's household) prior to the disclosure of information about the child's eligibility status. Consent must be obtained for each individual program and parents/guardians must be permitted to limit consent only to those programs with which they wish to share information. The state *Application for Free and Reduced-Price Meals* (*Attachment C*) provides an area in Section 6 for parental consent to be obtained. LEAs may also use the *Parental Release of Information* form *(Attachment D)* to obtain parental consent. The *Parental Release of Information* form may also be used for students eligible for free meals through direct certification or community eligibility, where a meal application is not required.

Parental Notification
Households must be informed that the information they provide on the free and reduced-price meal or free milk application may be disclosed to other programs. This information has been included in the state *Application for Free and Reduced-Price Meals*. For directly certified children, the notice of potential disclosure must be included in the document informing parents/guardians of their eligibility for free meals or free milk through direct certification.

Student Records in Child Nutrition Programs
The Federal Department of Education has established that education records are under the scope of the Family Education Rights and Privacy Act (FERPA). If free and reduced-priced information and eligibility status is maintained as a part of a student's education record, both FERPA and the National School Lunch Act disclosure rules apply.

Data Sharing Agreement
In any situation where information will be released, an agreement to keep the information confidential should be put in place. The *Data Sharing Agreement (Attachment E)* provides a prototype form to use for a data sharing agreement.

Penalties for Unauthorized Disclosure
The National School Lunch Act establishes a fine of not more than $1,000 or imprisonment of not more than one year, or both, for publishing, divulging, disclosing, or making known in any manner or extent not authorized by Federal law, any eligibility information. Entities authorized to receive data under a data sharing agreement, may not share that data with another entity or for any other purpose. For example, food services shares information via data share agreement with a principal, the principal may not share that information with the school counselor.

If you have questions regarding this memorandum, please contact your NSLP program specialist. The agency TTY number is (360) 664-3631.

This information is also available on OSPI's website at http://www.k12.wa.us/BulletinsMemos/memoranda2014.aspx.

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Attachments:
Attachment A: USDA Disclosure Chart
Attachment B: Confidentiality Requirements of Common Programs
Attachment C: Application for Free and Reduced-Price Meals
Attachment D: Parental Release of Information
Attachment E: Data Sharing Agreement

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