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# Determining Eligibility

School districts participating in the National School Lunch (NSLP) and School Breakfast Programs (SBP) and utilizing commodities are required to serve free and reduced-price meals to students determined eligible by current income eligibility guidelines, direct certification, homeless, runaway, migrant, Head Start, and Even Start Program approval. Eligibility determinations are valid for the entire year. Households that have been selected for verification may have their benefits changed during the verification process.

## **Applications/Letter to Households**

Parents and/or guardians must complete the necessary forms to determine if the student is eligible to participate. Households must be provided with the Letter to Households and the Meal Application form on or about the beginning of the school year. The income eligibility guidelines and any required revisions to the media release, household letter and application form to reflect changes in the eligibility criteria are generally available in late spring or after the end of the current school year at [www.squaremeals.org](http://www.squaremeals.org). The current forms must be used each year and should not be reformatted.

Directly certified students do not have to receive an application nor a Letter to Parents but should receive a notice of eligibility. See the section on direct certification.

## **Benefits Prior to Processing Applications**

Households that wish to qualify for eligibility must submit an application within the first 30 operating days of the school year. The district has the option to implement the status of children in that household immediately upon approval of that application, or the district may provide, for the first 30 operating days of the school year, benefits to the children in that household based on their status at the end of the last school year. This includes:

- all new children in the school district from households with children who were approved for benefits the previous year and
- previously approved students who transfer from one campus to another under the jurisdiction of the same school district.

Therefore, local school officials are encouraged to expedite eligibility determinations for all new enrollees.

If a sibling was not listed on last year's application but comes from a family with children who were eligible for free meals last year, the school district should add the sibling to last year's application. All children on the application may be claimed at last year's level of benefits for the first 30 operating days of school. A new application is required after the first 30 operating days of school.

The number of approved eligible students carried over to the current school year must be adjusted for students who graduated or withdrew from the district. After 30 operating days from

the beginning of school, students without new applications must have their benefits terminated. The master roster should reflect those adjustments.

### **Applications for Prospective Students Not Currently Enrolled**

A district can allow parents to complete a meal application for students not currently enrolled, for example kindergarten pre-registration at the conclusion of the school year, by using the free and reduced-price meal application form for that school year. The eligibility status for that student must be based on the Income Eligibility Guidelines for that current school year. The eligibility status of this child applies only to the first 30 operating days of the new school year. An application for the current school year must be distributed to determine eligibility for the remainder of the year. This must occur within 30 operating days from the beginning of the current school year.

## **Types of Applications**

The state office provides prototype application packets for multi-child applications and multi-use applications in both English and Spanish.

### **Multi-Child Application**

A multi-child application permits a family to establish eligibility for all school age children in the household. Advantages of using this application are more students are identified for eligibility, burdensome paper is eliminated and the number of applications required to be verified is reduced.

### **Multi-Use Application**

The Multi-Use Application for free and reduced-price meals enables parents and/or guardians to grant permission to the school district to share the eligibility determinations for students receiving free and reduced-price meals for purposes other than the National School Lunch (NSLP), School Breakfast (SBP) and Snack Programs. School districts that anticipate disclosure specifically to Medicaid or the state Children's Health Insurance Program (CHIP) must notify households of this potential disclosure and give the households the opportunity to decline the disclosure.

### **Foreign Language Applications**

School districts must send appropriate non-English language letters to parents and meal application forms to households if significant numbers of enrolled children have limited English communication skills or come from households belonging to the same foreign language group. If the number of non-English language households is not significant, the school district is not required to provide foreign language translations but is encouraged to provide translators to assist in filling out applications. However, if there is a limited English proficiency population, translators should be available to assist with completing the meal application.

The U.S. Department of Agriculture's (USDA) Food and Nutrition Services (FNS) Web site ([www.fns.usda.gov/cnd](http://www.fns.usda.gov/cnd)) contains samples of translated application materials in several of the

more commonly requested languages.

### **Computerized Application Scan**

A school may send households a computerized preprinted meal application including the child's name, the student's ID number, the name of the household and the household's address. No other information may be preprinted. Prior to using computerized applications, a letter must be sent to the compliance director at the state office. The state office will review computerized application for missing information, however, the district assumes full responsibility for their application.

### **Online/Web-Based Applications**

Local Education Agencies (LEAs) are encouraged to make use of technology by providing online/web-based applications. However, any online application processing must comply with TDA and USDA requirements. Prior to implementation, the LEA must submit a letter requesting approval to implement an online application processing system. Once the request is received, TDA will send the LEA a checklist that must be completed in detail outlining the procedures that the LEA will use to collect online applications. The completed checklist must be returned to TDA for approval.

Keep in mind that TDA does not approve specific software, and that USDA and TDA may require paper copies of applications during the Coordinated Review Effort (CRE). Paper applications could be printouts of the applications that were completed online. In addition, the LEA must provide a paper application to any household that does not wish to use an electronic application system.

TDA does not require paper applications with original signatures when an online application processing system is used with a legally binding electronic signature, such as personal identification numbers (PINs) and passwords.

### **Distribution of Applications**

In schools participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP) and Afterschool Care Program, a letter or notice to households and a free or reduced-price meal application **must be provided to parents or guardians of all children in attendance at the school.**

Letters and applications should be sent to households at the beginning of the school year to allow for the prompt return and review of applications. The distribution should include all children enrolled in the district.

School districts must make families aware of the availability of free and reduced-price meals and may even request that households apply, **but school officials may not require that a household submit an application for free or reduced-price meal benefits.** Districts may not use

income information given on an application for purposes other than NSLP or SBP benefits.

Although other methods for distributing letters and applications may be acceptable and used successfully, the most common method is to give each child a copy to take home. They do not have to be sent in the mail. For example, the school could include the application in a packet of school-related information addressed to the parent but carried home by the student at the beginning of the school year. Whatever distribution method is used, it must not identify students who were receiving benefits the prior year, those students on the DC list or those students who have already filled out an application.

Designated locations can be operated by a district prior to school opening to provide households an opportunity to apply for meal benefits. Parents or guardians cannot be required to go to only one particular place to apply for meal benefits. Various language interpreters could provide assistance in accurately completing the application. The most recently dated application takes precedence should duplicate applications exist.

Updated application packets from the state agency are provided every year between March and July. Applications should not be given out at the end of the school year to apply for the following school year.

The following are examples of **unacceptable** distribution practices:

- A public announcement that applications are available and interested parties may pick up one in the office.
- Schools distributing the letter to parents and application form only to those who request one or to those who received program benefits during the prior school year.
- Distributing the applications only in the lunch line.
- Distributing at the end of the school year to apply for the following school year.

#### **Distribution of Applications in Year-Round School and Prior Year Eligibility**

Regulations state that prior to processing applications for the current school year, children from households with approved applications on file from the preceding year may be served reimbursable free and reduced-price meals. Applications from the preceding year may be used to support eligibility only during the 30 operating days following the first operating day at the beginning of the school year.

Applying the above definitions to year-round schools, the prior year's applications may be used for 30 operating days following the first operating day for a given track (e.g., July 1 if it is an operating day of a track operating through the summer or the first operating day of a track that begins on or after July 1). Applications should be distributed on or about July 1 or soon thereafter so that households can provide current **income**. Eligibility would have to be based on new applications using the new income eligibility guidelines after that 30-operating-day period.

#### **Distribution of Applications by Schools Implementing Direct Certification**

If application packets are distributed through the mail, by individualized student packets or other methods that prevent overt identification, parents and/or guardians of directly certified students may be excluded from the distribution of meal applications and Letters to Households. Under this option, households will receive either a letter to parents with an application form or a letter notifying them that their children are eligible for free meal benefits due to direct certification.

## **Application Processing Time Frame**

Applications should be reviewed and an eligibility determination made within 10 operating days of the receipt of the application. Whenever possible, applications should be processed immediately, particularly for new students who do not have approved applications on file from the previous year.

## **Complete Application for Various Types of Students**

The reviewing official must review each incoming application to ensure the household submitted a complete application. If there are any unresolved inconsistencies or questions concerning the required eligibility information provided, the household's application must be denied. For example, if it is unclear whether the household provided weekly or monthly income, this issue must be resolved before an eligibility determination can be made. The official may contact the household prior to denial, document the details of the contact and date and initial the entry. If the application is complete, the official must then determine the eligibility.

When a new application is approved, the child's eligibility status is effective immediately. The only exception is during the first 30 operating days of a new school year, during which the district has the option to provide benefits to a child based on the child's status at the end of the last school year. The district is not required to give households the 10-day adverse action notice if it is a new application. 10-day adverse action should not be used when processing new applications. However, the district must notify the household in writing of a child's decrease in status. The notification must provide the reason for the decrease or denial of benefits; the right to appeal; instructions on filing an appeal; and a statement that households may reapply for free and reduced-price benefits at any time during the school year. The Texas Department of Agriculture (TDA) recommends that all households be notified in writing of any eligibility status change. **Meals can be claimed from that day forward.** The new eligibility status is not retroactive; therefore, the district cannot claim the student's previous meals under the new status.

Before an eligibility determination can be made, the household must provide the following information:

### **■ Food Stamp Households/Temporary Assistance to Needy Families (TANF) Assistance Units**

1. **Name** of child.
2. Food stamp or TANF **eligibility number**\* (any nine-digit number beginning with "1" or "0," or any eight-digit number that does NOT begin with 0).
3. **Signature** of an adult household member.

*\*Electronic Benefits Transfer (EBT) or Lone Star Card account numbers are not acceptable food stamp case numbers on the application. If this occurs, contact the applicant to obtain the valid nine-*

digit TANF or food stamp eligibility number.

■ **Income Eligible Households:**

1. **Names** of **all** household members.
2. **Social Security number** of the adult member who signs the application; “NA” or the word “none” if the adult household member does not have a Social Security number.
3. The **amount of current income received** by each household member, **identified by source** such as wages, welfare, alimony, etc., and the frequency with which that income is received; or an indication that no income is received (if no income is received, the “No Income” box must be marked.)
4. **Signature** of an adult household member.

**Acceptable Adult Signature**

Any printed name or cursive signature appearing in the space following the certification statement is an acceptable signature. All legal signatures do not have to be cursive. For example, an “X” could be considered a signature.

■ **Institutionalized Child:\***

1. **Name** of child.
2. Child’s personal **income**.
3. **Signature** of head of institution

*\*An institutionalized child—one who resides in a residential-type facility that the state has determined is not a boarding school. This child is considered a household of one. An institutionalized child’s income includes funds provided by the welfare agency that are specifically identified by category for the personal use of the child, such as for clothing, school fees and allowances. In addition, other funds received by the child are included as income: for example, income a child earns for full-time or regular part-time employment and money provided by the child’s family for personal use. If no funds are specifically identified for personal use, income should be listed as “0” and the application should be approved for a full year.*

■ **Foster Child:**

1. **Name** of child.
2. Child’s personal **income**.\*
3. **Signature** of foster parent, guardian or other official representative for the child.

The foster parent’s and/or guardian’s income, household size and Social Security number are not needed on the application.

*\*Foster Child’s income includes funds provided by the welfare agency that are specifically identified by category for the personal use of the child, such as for clothing, school fees, and allowances. In addition, other funds received by the child are included as income: for example, income a child earns for full-time or regular part-time employment and money provided by the child’s family for personal use. If no funds are specifically identified for personal use, income should be listed as “0” and the application should be approved for a full year. This child is considered a household of one.*

■ **Emancipated Child\***

1. **Name** of child.
2. **Income** of child.
3. **Signature** of the emancipated child.

*\*An Emancipated Child—The child is considered to be a separate household only in those cases where 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 students 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. This child is considered a household of one.*

#### ■ **Homeless Children**

Recognizing the problem of increasing homelessness in our nation, a policy has been established to simplify access to free meals for homeless children under the Child Nutrition Programs. The following procedures may be used when an application has not been submitted by the household or it is not anticipated that an application will be submitted:

1. The director of a homeless shelter where the child resides may complete and submit an application for the child;
2. Local level officials may complete an application for the child;
3. Local level officials may approve the application for the child for free meals based solely on their knowledge that the child's address is a homeless shelter or that the child has no known address and is indeed homeless; or
4. If it is not practical for those officials to complete individual applications because of large numbers of homeless children or for some other reason, documentation to substantiate free meal eligibility may be used in lieu of individual applications (a list of eligible students signed by the district's homeless liaison). At a minimum, this documentation must include the following information:
  - **Child's name.**
  - **Effective date.**
  - **Residence** (shelter, unknown, etc.).
  - **Signature** of determining official.

This list of eligible homeless children must be kept current. The homeless shelter must notify the district when a child leaves the shelter.

#### ■ **Disaster Victim Student**

1. **Name** of Child.
2. Household **income**.
3. **Household size**.
4. Adult's **signature**.
5. **Social Security number** of the adult who signs the application.

When a household has undergone a disaster and moved in with another household, the host family's household size and income should not be reported on the application. This situation should exist only through the duration of the disaster.

### ■ **Noncitizen Student**

U.S. citizenship is not a factor in the determination of eligibility. An eligibility determination is based on household size/income or the receipt of food stamps/TANF for the child as reported on a completed application. The school district must apply the same eligibility criteria for citizens and noncitizens. Foreign exchange students are considered noncitizen students.

## **Households That Provide Income Information and a Food Stamp/TANF Number**

If a multi-child or multi-use application contains a single food stamp/TANF number, all children listed on the application should be approved for free meal benefits. If income is included on the application which qualifies the household for free meals, approval should be based on the food stamp/TANF number.

If the income and household size make the household eligible for reduced or paid benefits, the district should approve the application based on food stamps/TANF, and all children in the household would be eligible for free benefits without regard to income.

For households that have students that are directly certified and students that are not directly certified, all income including TANF income must be included on the household application. The students that are included on the application that were categorically eligible will still be categorically eligible and the students that were not categorically eligible will be issued benefits based on the income of the household including TANF income, if applicable).

The district must clarify information if any application seems questionable. If the determining official has knowledge of the household's circumstance, the application may be verified for cause.

## **Incomplete Applications**

The household must provide all the required information on the application to be considered complete.

If an application is incomplete, it may be returned to the household or the household may be contacted either by phone or in writing to get the information. The school should document the details of the contact, enter the information received on the application, date and initial the entry. If the application is missing the signature of an adult household member, then the application must be returned to the household. In signing the application, the household member is certifying that the information on the application is true and correct. Every reasonable effort should be made to obtain the missing information prior to denying the application.

If no income is listed on the application, the reviewing official should contact the household for additional information. If the reviewing official is unable to contact the household, the applica-

tion must be denied because it would be incomplete. If the household enters “0” as income, it should be processed as a temporary approved application. The exception will be a zero income on an application for a foster child or institutionalized child, which is acceptable and may be approved for the school year. The adult household member signing the application must be listed as a member of the household and provide income.

## **Questionable/Inconsistent Applications**

If there are inconsistencies or questions concerning the required eligibility information provided, the household’s application **must** be denied, unless the inconsistencies or questions are resolved. When there are inconsistencies or questions about provided information, the household must be contacted for clarification prior to the application’s approval. Districts may verify for cause prior to approval if there is a reason to suspect the information provided.

Frequently questions arise concerning what is to be included as income and what constitutes a household. The following guidance is intended to provide guidelines for those individuals making eligibility determinations. The guidance cannot, however, address each individual situation. Reviewing 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 reviewing official should contact the state office.

## **Eligibility Determination**

Eligibility can be determined categorically (foodstamp/TANF, homeless, runaway, migrant, Head Start Program and Even Start Program), by income and by direct certification.

**1. Categorical Eligibility**—A child from a household currently certified to receive food stamps or from a TANF Assistance Unit is categorically eligible for free benefits. School districts **must** provide a household applying for free and reduced-price meals for their child the opportunity to indicate on the application that the child is categorically eligible for free benefits. When a household submits a complete application that contains: the name of the child, a current food stamp or TANF case number and an adult signature, the determining official **must** approve the child for free meals. No further application information is required.

### **■ Head Start Program\***

Children enrolled in federally-funded Head Start centers are considered categorically eligible for free meals in both lunch and breakfast programs. A list of students, signed by the Head Start Program Administrator, serves as the approval for eligibility.

### **■ Even Start Students**

Children at the pre-kindergarten level who are enrolled in the federally-funded Even Start Family Literacy Program are categorically eligible for free meals. Even Start Pre-K children are eligible if their parents are in the Even Start Program and have an Even Start application on file with the school district. Documentation from the Even Start official should include the child’s name, effective date, and confirmation that the child has not yet entered kindergarten.

**\*Documentation of a child's Head Start/Even Start participation includes:**

- an approved Head Start/Even Start application for the child's family; or
- a statement of enrollment in Head Start/Even Start; or
- a list of children participating in Head Start or Even Start with the child's name and effective date, and for Even Start--confirmation that the child has not yet entered kindergarten; and
- signature and title of the program official signing the list.

■ **Homeless**

A homeless child is one who, as designated by the school district's homeless liaison, resides in an emergency, transition, family violence or Department of Children and Families shelter; lives in another family/friend's house due to loss of housing, economic hardship or similar reason; lives in a motel, hotel, structure or vehicle that is not a permanent nighttime residence; temporarily resides with an adult other than their parent or guardian because the parent is suffering financial hardship. Must be designated by homeless liaison, not the child nutrition program director or manager.

■ **Runaway**

A runaway is a child who, as designated by the school district's homeless liaison, has become homeless or leaves and remains away from home without parental permission. These children are at risk of developing a disproportionate share of serious health, behavioral and emotional problems because they lack sufficient resources to obtain care and may live on the street for extended periods thereby endangering themselves and creating a substantial law enforcement problem.

■ **Migrant**

A migrant child is one who, as designated by the school district's migrant coordinator, has moved across district lines, within the last three years, to accompany or join a parent or guardian who has moved to seek or obtain temporary or seasonal work in agriculture or fishing.

**Residential Child Care Institutions (RCCIs)**

Institutionalized children are NOT categorically eligible for meal benefits. The day school must have an application on file for each student regardless of the child's place of residence. A record of each child's income, even if "0," must be identified on the application.

**2. Income Eligibility**—Households that are not categorically eligible must provide household size and income information that includes the **amount received by each household member, by source**. The most current Income Eligibility Guidelines must be applied using total reported income. If the total reported income for the household is within the eligibility limits, the child is eligible for either free or reduced-price meal benefits as applicable.

If a household has only one income source, or if all sources are the same frequency, do not use conversion factors. The eligibility must be determined on the income source submitted by the

household.

## Determining Household Size

School officials must often use their discretion in making household size determinations. The following list is provided for reference.

- **Adopted Child**—*An adopted child for whom a household has accepted legal responsibility is considered to be a member of that household. Therefore, the household's size and total income is considered in the eligibility determination. Adoption subsidies must be included as income.*
- **Boarding School Students**—*A student in boarding school is considered a member of the household in which he/she normally resides; therefore, household size and total household income are considered in the eligibility determination.*
- **Categorical Eligibility**—*A child for whom food stamp/TANF benefits are received is automatically eligible for free meals when the household provides a current food stamp or TANF case number on the application. Directly certified students, homeless, runaway and migrant students, Head Start students, and pre-K Even Start students are also considered categorically eligible.*
- **Child Living with One Parent, Relatives 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 he/she resides. The size and total income of that household is used to determine the child's eligibility. Children of divorced or separated parents are generally considered part of the household that has custody.*
- **Economic Unit**—*A group of related or unrelated people who share housing and/or all 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 in the same house. Separate economic units in the same house are characterized by prorating expenses and economic independence from one another.*
- **Emancipated Student**—*A student living alone or as a separate economic unit is considered to be a household of one. In some cases, an emancipated student may be living with relatives or friends, none of whom is an adult. If the household is one economic unit, all income and household members must be included to determine eligibility. Age is not a factor in defining an emancipated student.*
- **Equal Joint Custody**—*In cases where equal joint custody has been awarded to both parents and the child is considered to be a household member of both households, the child should use the eligibility status that best benefits the child regardless of which parent has the custody at the time.*
- **Family Members Living Apart**—*Household members who are temporarily absent from the household are considered household members, and their income is included with other household income when making an eligibility determination. Household members not living with the household for an extended period of time or living overseas are not included as members of the household for eligibility purposes, and only that portion of their income made available by them or on their behalf to the household is counted as income to the household.*
- **Food Stamp Household**—*Any individual or group of individuals currently certified to receive benefits under the Food Stamp Program.*
- **Foreign Exchange Students**—*Foreign exchange students are considered members of the households in which they reside. Therefore, the household size and total household income are considered in the eligibility determination.*
- **Foster Child**—*A foster child is a child who is living with a household but who remains the legal*

responsibility of the welfare agency or court. **Such a child is considered a household of one.** No other household members should be listed on this application. A foster child should not be listed on the household's application. Schools must require the household to submit a separate application for each foster child. Since each foster child, including a preschool foster child, is a household of one, foster children are not included in the foster parents' household. Payments received by the household for care of the foster child are intended to be used for the foster child and, therefore, are not included as part of the foster parents' income.

- **Foster Family**—A foster family may complete an application for their own household. Include income, etc. as any other application, but exclude income received for care of the foster child. Since each foster child is a household of one, foster children are not included in the foster parent's household.
- **Household and Family**—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.
- **Household of One**—A one-person household. This term applies to an emancipated child living alone or as a separate economic unit, a foster child or an institutionalized child. The child is considered to be a separate household only in those cases where 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 students 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.
- **Institutionalized Child**—A child who resides in a residential-type facility that the state has determined is not a boarding school. Such a child is considered a household of one.
- **Institutionalized Prisoner**—Prisoners are not household members and may not be counted on the application as household members.
- **Kinship Care Program**—A child in need of out-of-home placement is placed in foster care with a grandparent, relative or someone else who is emotionally close to the child. These children remain the legal responsibility of the welfare agency or court. A child placed in the Kinship Care Program is considered a household of one and a separated application is required for each child. The application is processed the same as an application for a foster child.
- **Military Families**—For the duration of Operation Enduring Freedom, USDA is allowing an exception to current policy on determining household income and size for deployed service members. Only that portion of the deployed service member's income made available by them or on their behalf to the household will be counted as income to the household. In addition, the deployed service member will continue to be considered a household member.
- **Permanent Managing Conservatorship**—Children may be placed with families on a permanent basis. The Child Protection Services office of the Department of Family and Protective Services administers this program. The court maintains overall responsibility for the children's welfare and these children should be considered "foster children" for the purpose of the Child Nutrition Programs. Under the Child Nutrition Programs, the key factor in determining whether a child has been adopted or placed in foster care is who has legal responsibility for the child. If the welfare agency or the court continues to have legal responsibility for the child, the child should be considered a foster child, regardless of the financial circumstances of the family with whom he/she has been placed.
- **Student Attending an Institution**—A student who attends but does not reside in an institution is considered a member of the household in which he/she resides.
- **Students Away at School**—Students who are temporarily away at school, for example students

*attending boarding schools or colleges, should be counted as members of the household.*

- **TANF Assistance Unit**—*Any individual or group of individuals currently certified to receive assistance under the Temporary Assistance for Needy Families Program.*

## **Determining Household Income**

### **Reportable Income**

Income to be reported on the non-categorically eligible household's application for free and reduced-price meals is any money received on a recurring basis including gross earned income. Specifically, gross income means all money earned before such deductions as income taxes, employee's Social Security taxes, insurance premiums and bonds. Income includes:

- payment of money for services; including wages, salary, tips, commissions or fees.
- Social Security benefits.
- Supplemental Security Income (SSI).
- public assistance / welfare payments (TANF, etc.), but not food stamp benefits.
- alimony or child support payments.
- unemployment compensation.
- government civilian employee or military retirement or pension.
- veteran's payments.
- private pension, annuities or retirement income.
- regular contributions from persons not living in the household.
- strike benefits.
- workers' compensation or disability benefits.
- net income for self-employed farmers and businesspersons, net rental income and royalties.
- dividends or interest on savings or bonds.
- income from estates or trusts.
- other cash income, including cash amounts received or withdrawn from savings, investments, trust accounts and other resources that would be available to pay the price of a child's meal.
- military benefits received in cash, such as housing allowances for military households living off base and food allowances.
- adoption assistance payments under Title XIX-E of Social Security (medical assistance).

### **Income Exclusions**

Income **not** to be reported or counted as income in the determination of a household's eligibility for free and reduced-price benefits includes:

- any cash income or value of benefits a household receives from any federal program that excludes such income by **legislative prohibition**, such as the value of food stamps provided under the Food Stamp Program.
- **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.

- the value of **in-kind compensation**, such as military on-base housing or any other non-cash benefit.
- **occasional earnings** received on an irregular basis, e.g., not recurring, such as payment for occasional babysitting or mowing lawns.
- any subsidy a household receives through the prescription drug card program.
- military benefits received in cash: as part of the Family Subsistence Supplemental Allowance (FSSA).
- payments made under the National Flood Insurance Program for flood mitigation activities to the owner of the property.
- rebates provided to families through the Economic Stimulus Act of 2008 are considered one-time lump sum payments.

### **Current Income**

Households **must** report **current** income on a free and reduced-price application. Current income means income received by the household during 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 project its annual rate of income based on the following guidelines:

#### ■ **Projected Income for Seasonal Workers and Others**

Seasonal workers and others whose income fluctuates usually earn more money in some months than in other months. Consequently, the previous month's income will commonly 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.

#### ■ **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. A common example of garnished wages includes alimony and child support payments.

#### ■ **Self-employment Income**

Self-employed persons may use last year's income as a base to project their current year's **net** income, unless their current monthly income provides a more accurate measure. Self-employed persons are credited with net income rather than gross income as described here. Net income for self-employment is figured by subtracting business expenses from gross receipts.

- Gross receipts include the total value of goods sold or services rendered by the business.
- Deductible **business** expenses include cost of goods purchased, rent, heat, utilities, depreciation charges, wages and salaries paid and business taxes (not personal federal, state, or local income taxes).

The value of saleable merchandise consumed by the proprietors of retail stores is not included as part of net income.

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

#### ■ **Farm Income**

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 farmland, buildings or equipment to others; and incidental receipts from the sale of items such as wood, sand and gravel.
- A farmer's operating expenses include cost of feed, fertilizers, 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 state and federal income taxes).

#### ■ **Military Income/Benefits**

Military benefits received in cash, such as housing allowances for military households living off base and food allowances, must be considered as income. However, the value of in-kind benefits other than cash, such as on-base housing, is not considered as income. The housing allowance for military personnel living in privatized housing will not be counted as income. Only the portion of the deployed service member's income made available by the service member, or on their behalf, to the household where the children are staying should be counted as income.

#### ■ **Income for Foster Children**

In determining income for the foster child, only the following should be considered:

- Funds provided by the welfare agency that are specifically identified by category for the child's personal use, such as for clothing, school fees and allowances. Welfare funds that are identified by category for shelter and care and those identified as special needs funds, such as those for medical and therapeutic needs, are not considered as income. Where welfare funds cannot be identified by category, no portion of the provided funds are considered as income.
- Other funds received by the child. This includes, but is not limited to, monies provided by the child's family for personal use and earnings from employment other than occasional or part-time jobs.

#### ■ **Income for Institutionalized Children**

Payments from any source directly received by the institution in a child's behalf are not considered as income to the child. Only income a child earns from full-time or regular part-time employment and/or personally receives while in residence at the institution may be

considered as income.

#### ■ **Student Income**

The earnings of a student who is a full-time or regular part-time employee must be listed on the application. Occasional earnings, such as baby-sitting, should not be listed on the application.

#### ■ **Alimony and Child Support**

Any monies received by a household in the form of alimony or child support is counted as income. Any monies paid out for alimony or child support may not be deducted from a household's reported gross income.

#### ■ **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. 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.

### **Questions and Answers Regarding Income Approval**

1. Q. 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?
  - A. Rather than denying the application or returning the application to the household, the determining official may contact the household, by phone or in writing, to ensure that the household submitted all documentation of income. The official should document the comment, enter the information on the application and initial and date the action.
  
2. Q. What payments from federal programs are excluded from consideration as income by legislative prohibition?
  - A.
    - The value of assistance to children and their families under the National School Lunch Act, the Child Nutrition Act of 1966, and the Food Stamp Act of 1977;
    - 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);
    - income derived from certain submarginal land of the U.S. that is held in trust for certain Indian tribes;
    - payments received under the Workforce Investment Act (WIA) commonly referred to as Job Training Partnership Act (JTPA);
    - income derived from the disposition of funds to the Grand River Band of Ottawa Indians;

- payments received under the Alaska Native Claims Settlement Act;
- payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation;
- payments to the Passamaquoddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980;
- 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;
- Agent Orange Settlement Payments to veterans that have been excluded under Public Law 101-201;
- payments received under the Civil Liberties Act of 1988;
- payments under the Child Care and Development Block Grant (P.L. 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 (P.L. 99-125);
- payments under the Disaster Relief Act of 1974, as amended by the Disaster Relief and Emergency Assistance Amendments of 1989 (P.L. 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 (P.L. 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 P.L. 101-508, which amended section 402(i) 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 (P.L. 102-586, Sec. 8(b));
- mandatory salary reduction amount for military service personnel, which is used to fund the Veteran’s Educational Assistance Act of 1984 (GI Bill), as amended (P.L. 99-576);
- 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 (P.L. 101-625);
- payments received under the Housing and Community Development Act of 1987;
- payments received under the Sac and Fox Indian claims agreement (P.L. 94-189, sec. 6);
- payments received under the Judgement Award Authorization Act;
- payments for the relocation assistance of members of the Navajo and Hopi Tribes (P.L. 93-531);
- payments to the Turtle Mountain Band of Chippewas, Arizona (P.L. 97-403);
- payments to the Blackfeet, Grosventre, and Assiniboine tribes (Montana) and the Papago (Arizona);
- payments to the Assiniboine Tribe of the Fort Belknap Indian community and the Assiniboine Tribe of the Fort Peck Indian Reservation (Montana) (P.L. 98-124);
- payments received under the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgement Funds Act (P.L. 99-346);

- payments to the Chippewas of Mississippi Valley (P.L. 99-377); and
- payments to the Red Lake Band of Chippewas.

Since programs are periodically added to this list, school districts should contact the state agency when there is a question of whether specific payments are to be included as income.

- Q. If a child is approved for free or reduced-price benefits, withdraws from school and then returns to school within the same school year, is that child still eligible for benefits?  
A. Yes. Approved applications are valid for the duration of the school year.
- Q. If the adjusted gross income on a tax return shows a negative income, can we list \$1 as income instead of \$0 which would only approve them as temporary (software doesn't allow negative numbers)?  
A. TDA would prefer the actual income figure be entered. However, if your software cannot accommodate a negative figure we would allow the \$1 figure.

#### **Question and Answer Regarding Residential Child Care Institutions (RCCIs)**

- Q. Is an application with household size and income information required for students who reside in an RCCI and attend public school during the day?  
A. Yes. The day school **must** have an application on file for each child for whom a free or reduced-price meal is served and claimed for reimbursement, regardless of the child's place of residence. Institutionalized children are not to be categorically certified as eligible for free or reduced-price benefits. A record of each child's income, even if "0," **must** be identified on the application for free and reduced-price meals.

#### **Questions and Answers Regarding Rent**

- Q. If one household owns a housing unit and rents living space to another household, does the household receiving the rental fee have to report this amount as income?  
A. 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.
- Q. 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?  
A. No. The transmitting household has not received income; rather it is performing a simple financial transaction that does not provide it with additional income.
- Q. Why is service personnel's off-base housing allowance counted as income when the value of on-base housing is not?  
A. 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, or employee medical or dental benefits. 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. However, in May 2002, USDA determined the housing allowance for military personnel living in privatized housing will not be counted as income when determining household eligibility for free and reduced-price meals in the Child Nutrition Programs.

## Computation of Current Income

Households **must** provide the amount of income received, identified by the individual who received it and where it comes from, such as wages, welfare, etc. **It is the responsibility of the reviewing official to compute the household's total current income and compare the total amount to the income eligibility guidelines.** If only one income is given, compare that income to the relevant income eligibility guidelines for that time frame. Errors could occur when weekly income is calculated or projected to monthly or yearly income.

*Example:* For a household of five that receives one paycheck each week, compare their income to the weekly income eligibility guidelines for a five-person household. If all incomes are received for the same time frame, add all the incomes together and compare the total income to the income eligibility guidelines for that time frame.

*Example:* If both parents in a family of three receive paychecks each week, add the two incomes together and compare the total to the weekly income eligibility guidelines for a household of three.

When households report incomes for different time periods (e.g., one monthly, one biweekly, one weekly), the reviewing official should convert all listed income amounts to an annual amount. The values resulting from each conversion should not be rounded. The reviewing official totals each conversion to determine total household income and then rounds the final total using normal rounding procedures. The official must then compare the converted value and the household size to the income eligibility guidelines and determine the eligibility of the household.

<i>To compute annual income:</i>	
<i>Every Week</i>	<i>Multiply the total gross income by 52.</i>
<i>Every Two Weeks</i>	<i>Multiply the total gross income by 26.</i>
<i>Twice a Month</i>	<i>Multiply the total gross income by 24.</i>
<i>Monthly</i>	<i>Multiply the total gross income by 12.</i>

## Direct Certification for Free Meal Benefits Eligibility Determination

Each year TDA makes available information about children who qualify for food stamps and were enrolled in the school district during the prior year. This is known as direct certification (DC) and

must be used by all districts regardless of size. The DC list is available for download on CNPIMS. The district must keep the original (July / August) printout on file for five years. Children are listed alphabetically by the school where they were enrolled during the preceding school year and are eligible to receive free meals for the current school year without further application. Households whose children are directly certified through use of this list are considered verified as well.

### **Direct Certification Quarterly Updates**

The direct certification list (DC list) of children who automatically qualify for free meal benefits is now being issued quarterly. This increases the possibility that different children in the same household may be approved at different benefit levels. Updates should be kept on file with the original DC documentation by the district.

Districts will be notified quarterly that the updated list is available through CNPIMS. There is no specific deadline for districts to download this list; however, the DC list updates will change the eligibility status for many students who should receive their entitlement within three days of download of the quarterly update.

Within three days of downloading the DC list update, districts must begin providing free meal benefits to students on that list who are not already receiving the benefit. For those students whose benefits are increased to free from either paid or reduced-price, districts must notify the household, using the standard Pre-Determined Eligibility letter available at the end of this section. Districts are not required to send written notification to households whose children are no longer enrolled in the district. However, DC list eligibility is good for the entire school year, so students on that list who leave the district and later return are eligible to receive benefits. Students that appear on the DC list who have never received benefits must be notified using the Pre-determined Eligibility letter. If a child on the DC list was already receiving free meal benefits based on a previously submitted application, the district should not send a letter to the household.

The distinction between whether the child is receiving benefits based on an application or based on the DC list is not important to the recipient household. Nor does it matter whether the district carries the child at point-of-sale as eligible by application or eligible by DC list, because they receive free meals either way. However, it is recommended that the district carry the child as eligible by the DC list because that application may no longer be used for verification unless it includes other children who are not on the DC list, but who receive benefits.

It is possible that not all children in a multi-child household will be on the DC list. Depending on the timing of applications and other factors, some children on the DC list may have been previously approved for benefits based on an application that contains other children who are not on the DC list.

If a student on the DC list is already receiving free meal benefits based on a previously submitted application, the DC list approval supersedes the application *for that child*. That application may not be used *for that child* for verification purposes. However, if there are children who are not on the DC list and are receiving benefits based on that application, that application may be used during the verification process.

If any child on a previously approved application receives benefits based on that application, and they are not on an updated DC list, the application remains active *for that child*.

If a household member contacts the district to ask why the children in that household are now receiving different benefits, the district should ask the family member for updated information, which may include a TANF/food stamp number.

Applications must be maintained in an active status if they are the basis for any child receiving benefits. Applications that become invalid because all the children on it have been added to the DC list must be maintained in an inactive file.

The “original DC list” with the original dates of approval for each child is the one issued in July of every school year. This list must be kept on file even as updates are received. The most current DC list information may be shared with other schools in district if necessary, i.e., the child moves from one school to another.

The list may be used all year to determine free meal benefits and should be handled with the same level of confidentiality as applications. The list should not be given to anyone other than child nutrition personnel responsible for determining eligibility and school officials who work with PEIMS.

By the beginning of school year 2008-2009 and all subsequent school years, all LEAs, regardless of size, must be conducting DC.

## **Notification of Predetermined Eligibility**

**It is required that a written notice be sent to each household certified as eligible for free meal benefits through direct certification.** The notice must advise them that: (a) their children are eligible for free meals for the entire year; (b) no further application is required; and (c) the household should notify the school if they do not want their children to receive free benefits.

A prototype letter of notification can be found at the end of this section. Districts should complete the letter by entering the name, address and telephone number of the contact person and the signature of the reviewing official in the signature block before reproducing on district letterhead. The school name can be deleted at the district’s option. **It is strongly recommended that no further re-formatting be done.** The district’s distribution method must prevent overt identification of children eligible through direct certification.

Children who are no longer enrolled in the district are not eligible for free meal benefits.

## **Predetermined Eligible Submitting An Application**

One of the difficulties encountered by reviewing officials with regard to the direct certification process is that households submit an application even after they have received the notification of predetermined eligibility. In an attempt to reduce the number of applications received for directly certified students, school officials are encouraged to send the notification of predetermined eligibil-

ity to households as early as possible.

If **all children** in the household are directly certified at the beginning of the school year and an application with a food stamp/TANF number is received, the children should be directly certified rather than determining eligibility based on the application.

If an application is received for a directly certified child with income and household size information that qualifies the children for **free meals**, with or without a food stamp/TANF number, the school should disregard the application and consider the children as directly certified. The DC list takes precedence over the application.

If an application with income and household size information that qualifies the household for reduced or paid benefits is received and there are both directly certified children and non directly certified children on that application, the directly certified child remains free on the DC list and the other children will be given a different eligibility based on the application.

### **Required Documentation Concerning Notification**

Documentation that a letter of notification was provided to the household must be maintained. Note the date that the letter of notification was provided to each household on the list beside the child's name or use another method compatible with existing district tracking systems such as "batch" information.

Once the eligibility determination has been made from the direct certification list, the original list downloaded from CNPIMS must be retained as documentation for reimbursement claims. The list should be filed with the applications for free and reduced-price meals and should be readily retrievable by school.

The district must also have a system for tracking directly-certified children who 1) transfer within the district, 2) do not re-enroll at the beginning of the school, 3) withdraw from school, or 4) enroll later in the school year.

### **Direct Certification of Siblings**

School officials are prohibited from adding names, even sibling names, to the direct certification list. If all the children in a household are not directly certified, the household must complete an application and eligibility for students not on the DC list would be based on the application.

### **Options for Distribution of Notification**

School districts that implement direct certification are not required to send the letter to parents and application form to those households eligible under direct certification if these materials are distributed through the mail, individual student packets or other methods that prevent the overt identification of children eligible through direct certification. Under this option, households will receive either a letter to parents with an application or a letter notifying them that

their children are eligible for free benefits.

### **Effects of Direct Certification, Head Start, Even Start, Homeless, Migrant and Runaway on Verification (Categorically Eligible)**

Households whose children are determined eligible through use of the direct certification list are exempt from verification requirements. When the district count of applications on file on October 1 is taken for the purpose of determining the number of applications to be verified, children who are categorically eligible should not be included in the count. Also, directly certified children should not be counted as verified. Implementation of direct certification will reduce the district's verification effort by reducing the number of applications on file, thus reducing the minimum required verification sample.

#### **Prior Benefits of Direct Certification**

Prior year direct certification benefits may be carried forward only for the first 30 operating days of the current school year. If an application is not received from the household during this period, benefits must be terminated on the 31st operating day. Children who are no longer enrolled are not eligible for free meal benefits.

The DC list is good for the entire year. If a student is on the list, he/she is eligible for free meals regardless of when during the year he/she enrolls in the district. If the student leaves and returns, he/she is still DC.

#### **Head Start Categorical Eligibility for Free Meals**

Children who are enrolled in the Head Start Program are automatically eligible for free meal benefits in the Child Nutrition Programs without further application or eligibility determination. The policy only applies to Head Start children who are enrolled as regular students in academic programs in the school district.

Other providers and off-campus sites for Head Start may be eligible through programs offered by other agencies, such as the Child and Adult Care Food Program (CACFP) administered by the Texas Department of Agriculture (TDA). School districts have no responsibility to provide service to these off-campus sites.

The reviewing official should obtain documentation of the Head Start participants, which includes a list of the names of the Head Start students and a statement certifying that those students are currently enrolled as participants in the Head Start Program. The documentation must include the signature of a Head Start employee authorized to provide the certification on behalf of the Head Start office and the date. The school district must maintain the list on file and a new list must be obtained at the beginning of every school year.

### **Verification of Head Start Eligible**

Verification of eligibility is not required for those children who have been determined categorically eligible for free meals based on documentation obtained annually from Head Start.

### **Siblings of Head Start Eligible**

Siblings of Head Start eligible students are not categorically eligible. Households must complete an application for eligibility.

### **Notification of Predetermined Eligibility for Head Start Eligible**

The Notification of Predetermined Eligibility form at the end of this section should be used to notify students of their eligibility for free meals based on Head Start certification.

### **Even Start Categorical Eligibility for Free Meals**

Pre-K children participating in the Even Start Family Literacy program are categorically eligible for free meals.

For a child to be categorically eligible for free meals based on their participation in Even Start, three criteria must be met.

- The school or institution that is providing the child with Even Start services must be participating in the Child and Adult Care Food Program (CACFP), National School Lunch Program (NSLP), School Breakfast Program (SBP), or Summer Food Program.
- The child must be enrolled as a participant in a federally-funded Even Start Family Literacy Program.
- The child must be at the pre-kindergarten level. **Once a child has entered kindergarten, that child loses his or her categorical eligibility for free meals based upon Even Start.**

### **Categorical Eligibility for Siblings**

Categorical eligibility does not apply to other family members.

### **Documentation to be Even Start Categorically Eligible**

Documentation of a child's participation in a federally funded Even Start program and documentation that the child is at the pre-kindergarten level must be provided by an Even Start official. Documentation of a child's Even Start participation could include the following:

- An approved Even Start application for the child's family.
- A statement of enrollment in Even Start.
- A list of children participating in Even Start with appropriate Even Start official's signature.

### **Recertification of Categorical Eligibility**

At the beginning of each year, the official responsible for determining eligibility for free and reduced-price meals in the NSLP and SBP must re-establish categorical eligibility for each Even Start child.

## **Record Retention**

The documentation establishing eligibility in Even Start must be maintained on file for five years and should be readily available to the Department of Agriculture, the state agency, and other appropriate agencies.

## **Termination of Even Start Eligibility**

When a child is no longer categorically eligible for free meals under Even Start eligibility, the child's family must be provided an opportunity to apply for free and reduced-price meals under the standard free and reduced-price application procedures or obtain eligibility through direct certification.

## **Homeless, Runaway and/or Migrant**

Children who are considered homeless, runaway and/or migrant are also categorically eligible.

## **Applications**

### **Time Frame for Processing Applications**

Applications should be reviewed and an eligibility determination made within 10 operating days of the receipt of the application. Whenever possible, applications should be processed immediately, particularly for new students who do not have approved applications on file from the previous year.

Once a current application is approved, a child's eligibility status is effective immediately and must be implemented within three days. The only exception is during the first 30 operating days of a new school year, during which the district has the option to provide benefits to a child based on the child's status at the end of the last school year. Meals can be claimed from the date of approval forward. The new eligibility status is not retroactive. Therefore, the district cannot claim the student's previous meals under the new status.

### **Temporary Approval**

If no income is listed on the application, the reviewing official should contact the household for additional information. If the reviewing official is unable to contact the household, the application must be denied because it is incomplete.

When a household reports zero income, the reviewing official should issue temporary approval of the application. **The time frame for a temporary approval is 45 days from the first approval date.** At the end of each temporary approval period, the LEA must re-evaluate the household's situation and should contact the household to determine if the household circumstances have changed. If there has been no change, the LEA may elect to either continue eligibility on a temporary basis and re-evaluate the situation at another interval (30 days) or make the approval valid for the remainder of the school year plus the first 30 operating days of the next school year. The LEA should document the contact and extend either temporary free status or permanent free status.

If the household reports a permanent change in circumstances, the LEA can document the infor-

mation on the application and approve the household for benefits or the LEA may request that the household submit a new application. The LEA must implement the new status within three (3) operating days. An adverse action notice is not required since the household was on temporary status.

Eligible children should receive temporary approval in the following types of economic situations:

- temporary layoffs.
- strikes (voluntary work stoppage).
- temporary receipt of public assistance (in cases where the application specifies receipt of public assistance for a limited time).
- zero income, for whatever reason (except foster children and institutionalized children).
- temporary disability.

After each temporary approval period, each household must be contacted again to offer the household an opportunity to report changes in household size and income information.

#### **Decline of Benefits by Parents**

After eligibility has been established and the parent is notified, the parent has the right to decline the benefits. The district must properly document the parent's decline by name of contact, date and initial. The school should respect the family's wishes and allow the child to pay the reduced-price charge or paid charge. The application should correctly reflect the approved status with documentation that the parent declined benefits. The parent can elect to place the child on a status lower than he was approved. Meals must be claimed at the lower status the parents requested and the application should reflect that.

If meals are charged by the student who declined benefits, the charge should be at the category the parent requested.

#### **Information Regarding Transferring Eligibility Status**

When a student transfers to another LEA, the accepting LEA may accept the eligibility determination from a copy of the transferred student's meal application from the former LEA. The accepting LEA may accept the eligibility determination without incurring liability for the accuracy of the initial determination. The accepting LEA should review the application for arithmetic errors and ensure the correct eligibility was determined. If an error was made, the accepting LEA must notify the household to submit a new application. The accepting LEA must make changes that occur as a result of verification activities or coordinated review findings conducted.

In addition to accepting eligibility based on a student's meal application, the LEA may accept the transferred student's status as an approved migrant.

## Household Failure To Apply

Local officials may complete an application for a student **known to be eligible** if the household fails to apply. When exercising this option, the school official **must** complete an application on behalf of the student based on the best household size and income information available and make an eligibility determination. **The source of the information must be noted on the application.** A household Social Security number, household names and signature of an adult household member need not be secured. The household **must** be notified that the student has been certified and is receiving free or reduced-price benefits. These applications should be excluded from verification.

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.

## Hardship Cases

Households that are not categorically eligible or income eligible cannot be approved for benefits. USDA has no provisions for making exceptions based on unusual household circumstances, such as high medical expenditures, etc.

## Notification of Eligibility or Denial

All households **must** be notified of their eligibility. School districts should notify households of their child's eligibility for free or reduced-price benefits either in writing or by phone. TDA recommends written notification be used to provide the district with documentation.

Households **denied** benefits **must** be given written notification of the denial. Parents or guardians should be notified of the eligibility determination as soon as possible. The notification **must** advise the household of:

- the reason for the denial of benefits.
- the right to appeal.
- instructions on how to appeal.
- a statement that households may reapply for free and reduced-price benefits at any time during the school year.

A sample notification letter is at the end of this section.

## Changes in Eligibility after the Initial Approval Process

Whenever an action taken by the school or the district results in a reduction or termination of benefits, the household **must** be provided the 10-calendar-day advance notice of adverse action. When there is an increase in the level of benefits, the district must notify the household and implement the change within three operating days of the benefit level change.

Changes in the status of an application may be maintained in a computer instead of being noted on the application. School officials **must** ensure that the changes are readily retrievable by the district for each school and are provided to state and federal reviewers along with the applica-

tions during a review of the applications. Status changes should include the date of the change, the category to which the student was changed and the initials of the person who made the change.

### **Changes in Household Circumstances**

Approved applications are good for the entire school year.

### **Reapplying for Program Benefits in Same Year**

Households that reapply due to termination of benefits (free or reduced to paid) as a result of verification **must** submit income documentation. Schools may request income documentation from all other households reapplying for benefits, at the discretion of the district.

After the first 30 operating days of school, many students are terminated because of failure to submit a new school year application. Since their eligibility is a carry over from the previous year and current year benefits have not been terminated, they are not required to submit income documentation with the new application.

### **Appeal Process**

A household may appeal the denial of their application or the level of benefits for which they have been approved. The hearing procedures outlined in the school district's free and reduced-price policy statement **must** be followed. Hearing requirements are described in "Application Agreement" and in the district's policy statement.

### **Record Keeping**

All free and reduced-price applications, including applications from households denied benefits and inactive applications, **must** be kept on file for a minimum of five years after the end of the fiscal year to which they pertain, except if audit findings have not been resolved, the applications **must** be maintained as long as required for resolution of the issues raised by the audit. For applications from households approved for benefits, the reviewing official should indicate the date each application is approved, and the level of benefit for which each child is approved, and sign or initial the application.

For applications from households denied benefits, the reviewing official **must** identify and retain on file the reasons for the denial. Records should also include the date of the denial, the date the denial notice is sent and the name of the reviewing official. These may be noted directly on the application.

### **For Changes in Application Status — Manual Systems**

When a student's eligibility changes or the student transfers to another school, the date of change or transfer should be noted on the application, any roster used and/or otherwise maintained. The change should be initialed and dated on the application. Current applications must be on file and there must be records to support transfers of students out of the school. Refer to Use of Automated Systems in Application Approval Process found in this section.

<b>Disclosure of Eligibility Information Chart</b>		
<b>Recipient of Information</b>	<b>Information that May be Disclosed to Recipient</b>	<b>Required Notification and Consent</b>
<i>Students Nutrition Programs</i> under the National School Lunch Act or Students Nutrition Act	All household information and benefit status	Prior notice and consent not required
<i>Federal/State or local means tested nutrition programs</i> with eligibility standards comparable to the NSLP	Name and eligibility status of the student	Prior notice and consent not required
<i>Federal education programs</i>	Name and eligibility status of the student	Prior notice and consent not required
<i>State education programs</i> administered by a State agency or local education agency (the individuals must be directly connected with administration of the specified program and be on a <b>need to know</b> basis)	Name and eligibility status of the student	Prior notice and consent not required
* For persons directly connected with program administration of <i>No Child Left Behind Act</i>	Name and eligibility status of the student	Prior notice and consent not required
* Teachers providing educational services under the <i>No Child Left Behind Act</i> are classified in “need to know” status	A list of children qualified as economic disadvantaged, but without specific eligibility of students	Prior notice and consent not required
<i>Local education programs</i>	NO eligibility information, unless parental consent is obtained	Must obtain parental consent
<i>Medicaid</i> or the <i>State student’s health insurance programs (SCHIP)</i> , administered by a State or local agency authorized under titles XIX or XXI of the Social Security Act to identify and enroll eligible students	All eligibility information, unless parents elect not to have information disclosed	Prior notice to and the opportunity for parents to decline to have their information disclosed—Social Security number may be included
<i>State health programs</i> other than Medicaid/SCHIP, administered by a State agency or local education agency	Name and eligibility status of the student	Prior consent not required
<i>Federal health programs</i> other than Medicaid/SCHIP	NO eligibility information, unless parental consent is obtained	Must obtain parental consent
<i>Local health program</i>	NO eligibility information, unless parental consent is obtained	Must obtain parental consent
<i>Comptroller General</i> of the United States for purposes of audit and examination	All household information and benefit status	Prior notice and consent not required
<i>Federal, State or local law enforcement officials</i> investigating alleged violations.	All household information and benefit status	Prior notice and consent not required

\*New Regulations

Disclosure of eligibility information about participants beyond that authorized by the statute is permitted only with consent. The entity receiving the information from the determining agency may use the information only for the purpose authorized and may not share the information further. In no case are determining agencies required to disclose eligibility information. Providing aggregate information that does not identify individuals continues to be permitted without consent.

The issues of privacy and confidentiality of personal data are complicated as well as sensitive. Therefore, prior to developing disclosure policies, we recommend that determining agencies discuss the disclosure provisions with legal counsel. At a minimum, determining agencies that decide to disclose information that identifies individuals must follow these guidelines. These guidelines apply to eligibility information regardless of the manner in which the information is maintained including, but not limited to, print, tape, microfilm, microfiche and electronic communication.

#### **Approved Programs/Agencies to Disclose Names and Eligibility Status**

Districts may disclose, without consent, participants' names and eligibility status (whether they are eligible for free or reduced-price meals) to persons directly connected with the administration or enforcement of the following programs:

- Federal education programs, such as Title I and the National Assessment of Educational Progress.
- State health or state education programs provided the programs are administered by a state agency or a local education agency. (Examples: TAKS, PEIMS, grant proposals.) Representatives of state or local education agencies evaluating the results and compliance with student assessment programs would be covered only to the extent that the assessment program was established at the state, not local level.
- Federal, state or local means-tested nutrition programs with eligibility standards comparable to the National School Lunch Program.

#### **Disclosing Additional Application Data to Approved Programs/Agencies**

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, districts may disclose names and eligibility status to a federal education program, but if the program requests family size, districts must obtain consent prior to disclosure.

#### **Disclosing Eligibility Information Without Parental Consent**

In addition to names and eligibility status, districts may disclose, without consent, all eligibility information obtained through the free and reduced-price meal eligibility process (including all information on the application or obtained through direct certification or verification) to the following:

- Persons directly connected with the administration or enforcement of the programs authorized under the NSLA or Child Nutrition Act of 1966 (CNA). This includes the National School Lunch Program, School Breakfast Program and Summer Food Program. 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 a Summer Food Program administered by another entity.

- The Comptroller General of the United States for purposes of audit and examination.
- 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 authorized to have access to names and eligibility status.

### **Disclosing Eligibility Information Requiring Parental Consent**

The disclosure of participants' names and any eligibility information that identifies them individually to programs or individuals not specifically authorized by the NSLA requires written consent. Some programs that may request names and eligibility information for which consent prior to disclosure is required includes the following:

- Federal health programs, such as Medicaid or the Children's Health Insurance Program (CHIP);
- Local health and local education programs and other local level activities. The disclosure of children's eligibility for free and reduced-price meals to determine children's eligibility for free textbooks, reduced fees for summer school or free eyeglasses from the Lion's Club requires consent when these are local initiatives and not state programs; and
- Any other federal, state or local program or individual not outlined.

### **Consent Statement Requirements**

The consent statement must be in writing. It may be obtained at the time of application, such as on a multi-use application, or at a later time. The consent statement must conform to the following requirements:

- The consent statement must identify the information that will be shared and how the information will be used.
- The consent statement must 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 may be signed by any adult household member.
- The consent statement must state that failing to sign the consent statement will not affect eligibility or participation for the Child Nutrition Programs and that the information will not be shared by the receiving program with any other entity or program.
- The parent/guardian/adult must be able 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 particular program.

## **Recommendation for Agreement Between District and Entity Requesting Information**

Prior to disclosing or using any information for purposes other than the program for which the information was obtained, we recommend that the district enter into a written agreement with the entity requesting the information. We suggest the agreement be signed by both the district 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 uses and disclosures and describe the penalties for unauthorized disclosure.

At a minimum, 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 \$1,000 or imprisonment of not more than one year or both.

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 Child Nutrition Program operations and enforcement.

## **Family Educational Rights and Privacy Act (FERPA)**

FERPA (Family Educational Rights and Privacy Act) regulations on releasing education records fall under the Federal Department of Education. NSLP regulations apply to these programs when releasing program information. Therefore, FERPA regulations do not apply to the NSLP.

## **Penalties for Improper Disclosure of Information**

The NSLA 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. 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 district.

## **Use of Automated Systems in Application Approval Process**

The use of automated systems in the approval process of applications for free and reduced-price meals has increased in recent years. In an automated system, the manual completion of the eligibility section on the application form is counterproductive. It is acceptable for school districts with automated systems to disregard the manual completion of this section. The school district's system must have the capability to generate a daily listing (master roster) of all eligible students, the basis of approval (income, directly certified, categorical, homeless, runaway and migrant categorical, Head Start categorical, and Even Start categorical), the eligibility status, the date of approval and other significant dates, such as withdrawal and reentry.

Changes in the status of an application may be maintained in a computer instead of being noted on the application. School officials must ensure that the changes are readily retrievable by school and are provided to state and federal reviewers along with the applications during a review of the applications. Status changes should include the date and the category to which the student was changed. The district must have the reviewing official sign each application or sign a listing (referred to as Batch Transmittal) of the applications approved on a daily basis. This is an alternative to signing all applications after they are approved through the use of automation.

## **Maintaining Applications**

Applications may be maintained either at the school or at a central location. Centrally located applications must be readily retrievable by **school**. School officials must be able to separate the applications for an individual school from the others in the district to support the reviewed school's claim for reimbursement. The applications for an individual school need not be housed in that school nor do they need to be filed separately from the applications of other schools. They need only be **readily retrievable by school** but must be available in the district during a review.

It is not possible to create a "model" application maintenance system that meets the needs of every school participating in the program. However, it is possible to cite the essential features that all systems must have to operate efficiently.

Regulations require that applications are readily retrievable by school. Changes in eligibility status must be made within the required time frames. For time frame information, please refer to the table of contents.

### **Categories for Maintaining Applications**

Five categories of applications must be maintained:

1. Free
2. Reduced-Price
3. Denied
4. Withdrawn
5. Temporary

It is not required that applications in each of the above listed categories be filed separately from the others. However, it must be possible for school officials to separate applications by category when called upon to do so.

In manual systems free, reduced-price, denied, and the date of the determination are indicated on the bottom of the application form in the area reserved for information recorded by the reviewing official. In an automated system, the level of benefits for which a student was approved (or denied) and the date of the determination should be indicated by the student's name on the computer printout. This information must be available not only on a current basis but also for prior months. When printouts are used for issuing the medium of exchange, updates provided to the cashier should be added to the master printout with the date that the update became ef-

fective. If and when an updated master printout is issued to the cashier, it should be crosschecked with the printout that is currently in use. Any discrepancies should be resolved with the central office. The previously used printout should not be discarded but retained as documentation that supports prior months' reimbursement claims.

Districts using a computerized system to determine eligibility are not required to complete the "school use" section of the application as long as eligibility determination can be tracked. Applications on computerized systems must be designated by Eligibility. Changes to household size, income, etc. must be documented on the application form as well as on the computer. The change should be initialed and dated on the application. The application form is the official document from which eligibility is determined.

### **Maintenance of Alternative School Applications**

Districts operating an alternative school or county-wide juvenile detention centers (JDC) must establish procedures for maintaining applications for counting and claiming of reimbursable meals.

One accepted procedure is for the host district (physical site of the school campus) to keep copies of the students' applications, direct certification eligibility or roster with each students' eligibility on file from the "sending district." The host district, which is providing meal service, may claim reimbursement for eligible students in the proper category. In some situations a student's attendance in such a school may be short-term (a few days) or long-term (entire school year). Adjustments and notations should be entered on the Accuclaim records to justify the claim when applicable and to document current numbers of approved students.

Another acceptable procedure is the host district could charge the other districts for the number of meals served to their students. The charge would be at a price to recoup the cost of providing the meals. The host school would not claim these meals even as a paying student. The host district would not have to keep a copy of the visiting students meal applications. The other districts or home districts would pay the host school the billed amount and the home districts would claim the meals at the approved status for those students.

If the district wants to use a different procedure than the ones mentioned, contact the state office.

Reimbursable meals served to eligible students may be claimed by the host district or the home district but **must not be claimed by both districts.**

### **Maintenance of Withdrawn Students' Applications**

If a child eligible for benefits withdraws/drops out from a district and returns within the school year, the district can reactivate that student's status without collecting another application.

# Notification of Predetermined Eligibility (Direct Certification)

Date:

Dear Parent or Guardian:

Our records indicate that the child/ children listed below live in your household and is/ are eligible for free school lunch, breakfast and snack. This child/ These children will automatically receive free meals beginning immediately. We hope this will make it easier for your child/ children to take part in school meals. Also, this child/ children may qualify for free or low-cost children’s health insurance. For more information, please call toll-free (877) 543-7669.

Child/Children’s Name(s)	School Name
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

At the beginning of the school year a letter to parents and an application for free and reduced-price meals are distributed to each household. Do not fill out or return an application for the child/ children listed above. **However, an application must be completed and returned to the school for any child/children living in the same household but not listed above.**

If you do not want the free meals for your child/ children or if you have any questions about this program, please contact:

Name - Title

Address

Telephone

(Signature of Reviewing Official)



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## Notification of Predetermined Eligibility (Head Start)

Date:

Dear Parent or Guardian:

Our records indicate that the Head Start child listed below lives in your household and is eligible for free school lunch, breakfast and snack. This child will automatically receive free meals beginning immediately. We hope this will make it easier for your child to take part in the school nutrition programs.

Child's Name

School Name

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At the beginning of the school year a letter to parents and an application for free and reduced-price meals are distributed to each household. Do not fill out or return an application for the Head Start child listed above.

If you do not want the free meals for your child/ children, or if you have any questions about this program please contact:

Name - Title

Address

Telephone

(Signature of Reviewing Official)

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## Notification of Predetermined Eligibility (Migrant)

Date:

Dear Parent or Guardian:

Our records indicate that the child/children listed below live in your household and is/are eligible for free school lunch, breakfast and snack due to your family's migrant status. This child/These children will automatically receive free meals beginning immediately. We hope this will make it easier for your child to take part in the school nutrition programs.

Child/Children's Name(s)

School Name

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At the beginning of the school year a letter to parents and an application for free and reduced-price meals are distributed to each household. Do not fill out or return an application for the child/children listed above. However, an application must be completed and returned to the school for any child/children living in the same household but not listed above.

If you do not want the free meals for your child/children or if you have any questions about this program please contact:

Name - Title

Address

Telephone

(Signature of Reviewing Official)

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## Letter to Household of Approval/Denial of Benefits

Child(ren)'s Name(s): \_\_\_\_\_

School \_\_\_\_\_ Teacher / Grade \_\_\_\_\_ Date \_\_\_\_\_

Dear \_\_\_\_\_:

Your application for free and reduced-price meals for your child(ren) has been:

- \_\_\_\_\_ Approved for free meals.
- \_\_\_\_\_ Approved for reduced-price meals at \_\_\_\_\_ cents for lunch, \_\_\_\_\_ cents for breakfast and \_\_\_\_\_ cents for snacks served at the afterschool care program.
- \_\_\_\_\_ Temporarily approved for (insert free or reduced-price) meals until (insert date).
- \_\_\_\_\_ Denied for the following reason(s):
  - \_\_\_\_\_ Income over the allowable amount.
  - \_\_\_\_\_ Incomplete application. Complete the following information:

If you do not agree with the decision, you may discuss it with (insert name and phone number of the district reviewing official). You also have a right to a fair hearing. To request a fair hearing, call or write the following official:

Name and Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_ Phone: \_\_\_\_\_

You may reapply for benefits at any time during the school year. If you are not eligible now but have a decrease in household income, become unemployed, have an increase in household size or qualify for TANF or food stamps, you may fill out another application at that time.

Sincerely,

Reviewing Official

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## **Disclosure of Confidential Information**

The Healthy Meals for Healthy Americans Act of 1994, P.L. 103-448, amended the National School Lunch Act (NSLA) to allow, without consent, limited disclosure of information about free and reduced-price meal eligibility. The disclosure limitations apply to all the Child Nutrition Programs.

USDA has authorized determining agencies to disclose free and reduced-price meal eligibility information to the extent authorized in the statute. "Determining agency" means the Texas Department of Agriculture or the school district that makes the free and reduced-price meal eligibility determination.