United States Department of Agriculture

Food and Nutrition Service

Mountain Plains Region

1244 Speer Boulevard
Denver, CO
80204-2581

Reply to Attn of: SP-04-25

SEP 08 2004

Subject: Re-issuance of Policy on Limited Disclosure of Children's Eligibility Information to the National Assessment of Educational Progress (NAEP)

To: STATE AGENCY DIRECTORS - (Special Nutrition Programs) Colorado ED, Iowa, Kansas, Missouri ED, Montana OPI, Nebraska, North Dakota, South Dakota, Utah and Wyoming

This memo serves as a reminder to information that was forwarded in our SP-03-13 memo, dated March 25, 2003 that provided information on the *Use of Free and Reduced Price Date, Including Data from Provision 2 and 3 Schools, for Implementation of the No Child Left Behind Act.*

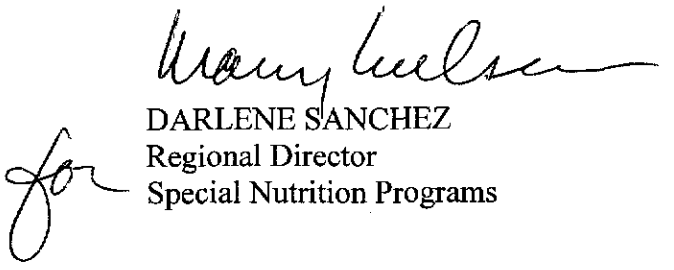
As a reminder, school food authorities may disclose, without parent/guardian consent, children's names and eligibility status (whether they are eligible for free meals or free milk or reduced price meals) to persons *directly* connected with the administration or enforcement of a Federal or State education program, as permitted by section 9(b)(2)(C)(iii) of the Richard B. Russell National School Lunch Act. Persons directly connected to the administration or enforcement of NAEP are authorized recipients of children's free and reduced price meal eligibility status because NAEP is a Federal education program. Additionally, school food authorities may disclose children's names and eligibility status to persons directly connected with the administration or enforcement of State educational assessment programs to the extent that the State assessment is part of the NAEP or the assessment program is established at the State, not local level. Other State education programs also are eligible to have access to participants' names and eligibility status, without parent/guardian consent, but the program must be established at the State, not local level.

The term "persons directly connected" for the purpose of disclosure to NAEP includes Federal, State and local program operators responsible for NAEP program administration or program compliance and their contractors. This does not imply that these persons have routine access to participants' eligibility status. There must be a "need to know" for legitimate NAEP purposes.

We recommend that school food authorities inform households if they plan to disclose or use eligibility information outside the originating program. We also recommend that the school food authority enter into a written agreement with NAEP officials. We suggest that the agreement be signed by both the school food authority and NAEP officials, as appropriate, that the agreement 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.

In accordance with the statute, school food authorities are not *required* to disclose eligibility information. This is a State and local decision.

If you have any questions, please contact our office at (303) 844-0354.



DARLENE SANCHEZ
Regional Director
Special Nutrition Programs