



Office for Safety, Health and Nutrition  
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## POLICY STATEMENT

Limited Disclosure of Children's Eligibility information to the National Assessment of Educational Progress (NAEP)

**Source:** USDA Memo SP 33-2006  
**Code:** NSLP-05-08  
**Audience:** All SFAs  
**Effective Date:** 10/22/2007  
**Replaces:** N/A  
**Program:** NSLP

## INTRODUCTION

Sharing of confidential child eligibility information has become a growing concern for Ohio's school food service operations. 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)(iii) of the Richard B. Russell National School Lunch Act. The information addressed in this memorandum states the National School Lunch Program (NSLP) policy for Ohio Local Educational Agencies (LEAs) for disclosure of children's eligibility information to the National Assessment of Educational Progress (NAEP) and should be used in reference to the issue of confidentiality.

## STATEMENT OF POLICY

### A. DEFINITION OF DISCLOSURE OF STUDENT ELIGIBILITY INFORMATION AND THE NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

1. Per Federal Regulations 7 CFR 245.1(a-3), disclosure is defined as individual children's program eligibility information obtained through the free and reduced price meal or free milk eligibility process that is revealed or used for a purpose other than for the purpose for which the information was obtained. The term refers to access, release, or transfer of personal data about children by means of print, tape, microfilm, microfiche, electronic communication or any other means.
2. The National Assessment of Educational Progress (NAEP) is a nationally representative assessment of student knowledge in multiple subject areas. The Commissioner of Education Statistics is responsible by law for carrying out the NAEP project.

### B. AUTHORIZED STUDENT ELIGIBILITY DISCLOSURE TO THE NATIONAL ASSESSMENT OF

## **EDUCATIONAL PROGRESS (NAEP)**

1. As permitted by section 9(b)(2)(C)(iii) of the Richard B. Russell National School Lunch Act, 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.
2. Persons directly connected with 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.
3. 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.
4. 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.
5. 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.

## **C. PROCEDURE FOR CHILDREN'S ELIGIBILITY DISCLOSURE**

1. The Ohio Department of Education recommends that school food authorities inform households if they plan to disclose or use eligibility information outside the originating program.
2. School food authority's should enter into a written agreement with NAEP officials, of which confirms the entity receiving the information, describes the information to be disclosed and how it will be used, describes how the information will be protected from unauthorized uses and disclosures, and describes the penalties for unauthorized disclosure.
3. The agreement should be signed by both the school food authority and NAEP officials, as appropriate.

## **D. UNAUTHORIZED DISCLOSURE OF STUDENT ELIGIBILITY INFORMATION**

1. In accordance with section 9(b)(2)(C)(v) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(2)(C)(v)), any individual who publishes, divulges, discloses or makes known in any manner, or to any extent not authorized by statute or this section, any information obtained under this paragraph (f) will be fined not more than \$1,000 or imprisoned for up to 1 year, or both.

Please keep this memo on file for reference. A copy of the memo is available for downloading from the ODE website at: <http://www.ode.state.oh.us/>. If you have any questions regarding this memo, please contact the Ohio Department of Education, Office for Safety, Health and Nutrition.

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