Attachment A, Memo No. 146-18

June 8, 2018

# **PROTOTYPE AGREEMENT**

# **AGREEMENT for DISCLOSURE OF FREE AND REDUCED PRICE INFORMATION**

# **Purpose and Scope**

[Insert the Name of the Determining Agency] and [Insert the Name of the Receiving Agency] acknowledge and agree that children’s free and reduced price meal and free milk eligibility information obtained under provisions of the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.) (NSLA) or Child Nutrition Act of 1966 (42 USC 1771 et seq.) (CNA) and the regulations implementing these Acts is confidential information. This Agreement is intended to ensure that any information disclosed by the [Insert name of the Determining Agency] to the [Insert Name of the Receiving Agency] about children eligibility for free and reduced price meals or free milk will be used for purposes specified in this Agreement and that the [Insert name of the Determining Agency] and [Insert Name of the Receiving Agency] recognize that there are penalties for unauthorized disclosures of this eligibility information.

# **Authority**

Section 9(b)(6)(A) of the NSLA ((42 U.S.C.1758(b)(6)(A)) authorizes the limited disclosure of children’s free and reduced price meal or free milk eligibility information to specific programs or individuals, without prior parent/guardian consent. Except that, the parent/guardian must be provided the opportunity to decline to share eligibility information prior to the disclosure for identifying children eligible for benefits under or enrolling children in State Medicaid Program and the state children’s health insurance program, Family Access to Medical Insurance Security Plan (FAMIS). Additionally, the statute specifies that for any disclosure not authorized by the statute, the consent of children’s parents/guardians must be obtained prior to the disclosure.

The requesting agency certifies that it is currently authorized to administer the following program(s) and that information requested will only be used by the program(s) indicated.

| **Program** | **Information Authorized** | **Check box** |
| --- | --- | --- |
| Medicaid or FAMIS, Virginia’s program to provide insurance to children, administered by a State or Local agency authorized under titles XIX or XXI of the Social Security Act.  ***Specify Program:*** | All eligibility information unless parents elect not to have information disclosed. |  |
| State health program other that Medicaid/CHIP, administered by a State agency or local agency.  ***Specify Program:*** | Eligibility state only;  Prior consent not required. |  |
| Federal health program and Medicaid/CHIP  ***Specify Program:*** | No eligibility information unless prior parental or guardian consent is obtained. |  |
| Local health program  ***Specify Program:*** | No eligibility information unless prior parental or guardian consent is obtained. |  |
| Child Nutrition Program under the National School Lunch Act or Child Nutrition Act  ***Specify Program:*** | All eligibility information; consent not required. |  |
| Federal/State or local means tested nutrition program with eligibility standards comparable to the National School Lunch Program  ***Specify Program:*** | Eligibility status only; consent not required. |  |
| Federal education program  ***Specify Program:*** | Eligibility status only; consent not required. |  |

*Note: Section 9(b)(6) specifies that certain programs may receive children’s eligibility status only, without parental consent. Parental consent must be obtained to disclose any additional eligibility information.*

# **Responsibilities:**

[Insert Name of Determining Agency] will:

When required, secure the consent of parent/guardians prior to any disclosure not authorized by the National School Lunch Act or any regulations under the Act, unless prior consent is secured by the receiving agency and made available to the determining agency;

Disclose eligibility information only to persons directly connected to the administration or enforcement of programs authorized access under the National School Lunch Act or regulations under the Act or to programs or services for which parent/guardians gave consent.

[Insert Name of the Receiving Agency] will:

Ensure that only persons who are directly connected with the administration or enforcement of the [Insert name of the Program] and whose job responsibilities require use of the eligibility information will have access to children’s eligibility information:

| **Specify by name(s) or title(s):** |
| --- |
| [Enter information here] |

| **Use children’s free and reduced price eligibility information for the following specific purpose(s):** |
| --- |
| [Enter information here] |

Inform all persons that have access to children’s free and reduced price meal eligibility information that the information is confidential, that children’s eligibility information must only be used for the purpose specified above, and the penalties for unauthorized disclosures.

| **Protect the confidentiality of children’s free and reduced price meal or free milk eligibility information as follows:** |
| --- |
| [Enter information here] |

| **Specifically describe how the information will be protected from unauthorized uses and further disclosures.** |
| --- |
| [Enter information here] |

| **Description of Procedures to transfer meal eligibility information (may be completed by either the determining agency or receiving agency)** |
| --- |
| [Enter information here] |

| **Describe the procedures for transferring student’s meal eligibility information for the determining agency to the requesting agency/program so as to limit the number of individuals who have access to the information. Please describe.** |
| --- |
| [Enter information here] |

# **Effective Dates**

This agreement shall be effective from [Click or tap to enter a date.] to [Click or tap to enter a date.].

# **Penalties**

Any person who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal Law (Section 9(b)(6) of the National School Lunch Act; 42USC 1758(b)(6) or a regulation, any information about a child’s eligibility for free and reduced price meals or free milk, shall be fined not more than a $1,000 or imprisonment of not more than one year or both.

# **Signatures**

The parties acknowledge that children’s free and reduced price meal and free milk eligibility information may be used only for the specific purposes stated above, and that unauthorized use of free and reduced price meal and free milk information or further disclosure to other persons or programs is prohibited and a violation of federal law, which may result in civil and criminal penalties.

# **Requesting Agency/Program Administrator:**

**Name** Click or tap here to enter text. **Signature:**

**Title:** Click or tap here to enter text. **Date**: Click or tap to enter a date.

**Phone**: Click or tap here to enter text.

# **Determining Agency Administrator:**

**Name** Click or tap here to enter text. **Signature:**

**Title:** Click or tap here to enter text. **Date**: Click or tap to enter a date.

**Phone**: Click or tap here to enter text.