



Office for Prekindergarten through Grade 12 Education  
School Operations and Management  
Child Nutrition Program Administration  
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To: School Food Service Directors/Managers

From: Paula Tyner-Doyle, Coordinator

Date: October 17, 2013

Subject: Child Nutrition Reauthorization 2010: Categorical Eligibility of Children in Foster Care

This memorandum provides additional questions and answers and clarification to update SFAs regarding Categorical Eligibility of Foster Children. The Healthy, Hunger-Free Kids Act of 2010 (HHFKA) authorized categorical eligibility for foster children in Section 9(b)(12)(A) of the Richard B. Russell National School Lunch Act (NSLA) and defined a foster child as “a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq.); or a foster child who a court has placed with a caretaker household.”

In addition, the HHFKA amended Section 9(b)(5) of the NSLA to allow certification of children in foster care for free meals, without application, if the local educational agency (LEA) or other institution administering a Child Nutrition Program obtains documentation from an appropriate State or local agency indicating the status of the child as a child in foster care. These provisions were effective October 1, 2010.

It is important to note that these provisions only apply to children formally placed in foster care by a State child welfare agency or a court. They do not apply to informal arrangements such as caretaker arrangements or permanent guardianship placements that may exist outside of or as a result of State or court based systems. Whether placed by the State child welfare agency or a court, in order for a child to be considered categorically eligible for free meals, the State must retain legal custody of the child.

In accordance with the Healthy, Hunger-Free Kids Act of 2010, the NYS Office of Children and Family Services (OCFS) has issued an Informational Letter to local departments of social services (LDSS) and voluntary authorized agencies (VA) regarding the notification to school superintendents of foster children placed in families within their districts.  
<http://www.ocfs.state.ny.us/main/policies/external/#INF>

The Informational Letter includes a prototype annual letter, which LDSS and VA should be using to inform school districts of the names of foster care children in their care and custody or the names of children who are placed by the court with a caretaker household that is under their supervision or for whom they are paying kinship guardianship assistance (KinGAP).

We strongly encourage school food authorities and other institutions administering Child Nutrition Programs to establish formal mechanisms with State and local child welfare agencies to receive information directly from these agencies to facilitate certification for free meals for children in foster care.

## **The Application Process**

Previously, a separate application for free and reduced price meals was submitted for a foster child who was considered a household of one. Now, the foster child is categorically eligible and may be certified without an application. Households with foster and non-foster children may choose to include the foster child as a household member, as well as any personal income earned by the foster child, on the same household application that includes their non-foster children. This will streamline the application process and may help the foster family's non-foster children qualify for free or reduced price meals based on household size and income.

In processing the application, the LEA or other institution administering a Child Nutrition Program would certify the foster child for free meals, and then make an eligibility determination for the remainder of the household based on the household's income (including personal income earned by the foster child) or other categorical eligibility information reported on the application.

As before, foster care payments received by the family from the placing agency are not considered income and do not need to be reported. Please note that the presence of a foster child in the household does not convey eligibility for free meals to all children in the household in the same manner as Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Food Distribution Program on Indian Reservation (FDPIR) participation does.

If you have any questions regarding this memorandum, please do not hesitate to call your Child Nutrition Program Representative at (518) 473-8781.

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