

APPENDIX H.1

RELEVANT DOCUMENTS:

SECTION 104 OF THE CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 2004

## **SEC. 104. DIRECT CERTIFICATION.**

(a) IN GENERAL- Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended--

(1) by redesignating paragraphs (3) through (7) as paragraphs (9) through (13), respectively; and

(2) in paragraph (2)--

(A) in subparagraph (B)--

(i) by striking ‘(B) Applications’ and inserting the following:

‘(B) APPLICATIONS AND DESCRIPTIVE MATERIAL-

‘(i) IN GENERAL- Applications’;

(ii) in the second sentence, by striking ‘Such forms and descriptive material’ and inserting the following:

‘(ii) INCOME ELIGIBILITY GUIDELINES- Forms and descriptive material distributed in accordance with clause (i)’; and

(iii) by adding at the end the following:

‘(iii) CONTENTS OF DESCRIPTIVE MATERIAL-

‘(I) IN GENERAL- Descriptive material distributed in accordance with clause (i) shall contain a notification that--

‘(aa) participants in the programs listed in subclause (II) may be eligible for free or reduced price meals; and

‘(bb) documentation may be requested for verification of eligibility for free or reduced price meals.

‘(II) PROGRAMS- The programs referred to in subclause (I)(aa) are--

‘(aa) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

‘(bb) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

‘(cc) the food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and

‘(dd) a State program funded under the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).’;

(B) by striking ‘(C)(i)’ and inserting ‘(3)’; and

(C) by striking clause (ii) of subparagraph (C) (as it existed before the amendment made by subparagraph (B)) and all that follows through the end of subparagraph (D) and inserting the following:

‘(4) DIRECT CERTIFICATION FOR CHILDREN IN FOOD STAMP HOUSEHOLDS-

‘(A) IN GENERAL- Subject to subparagraph (D), each State agency shall enter into an agreement with the State agency conducting eligibility determinations for the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

‘(B) PROCEDURES- Subject to paragraph (6), the agreement shall establish procedures under which a child who is a member of a household receiving assistance under the food stamp program shall be certified as eligible for free lunches under this Act and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application.

‘(C) CERTIFICATION- Subject to paragraph (6), under the agreement, the local educational agency conducting eligibility determinations for a school lunch program under this Act and a school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall certify a child who is a member of a household receiving assistance under the food stamp program as eligible for free lunches under this Act and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application.

‘(D) APPLICABILITY- This paragraph applies to--

‘(i) in the case of the school year beginning July 2006, a school district that had an enrollment of 25,000 students or more in the preceding school year;

‘(ii) in the case of the school year beginning July 2007, a school district that had an enrollment of 10,000 students or more in the preceding school year; and

‘(iii) in the case of the school year beginning July 2008 and each subsequent school year, each local educational agency.’.

(b) ADMINISTRATION-

(1) IN GENERAL- Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) (as amended by subsection (a)) is amended by inserting after paragraph (4) the following:

‘(5) DISCRETIONARY CERTIFICATION-

‘(A) IN GENERAL- Subject to paragraph (6), any local educational agency may certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the status of the child as--

‘(i) a member of a family that is receiving assistance under the temporary assistance for needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995;

‘(ii) a homeless child or youth (defined as 1 of the individuals described in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2));

‘(iii) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); or

‘(iv) a migratory child (as defined in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399)).’.

‘(B) CHILDREN OF HOUSEHOLDS RECEIVING FOOD STAMPS- Subject to paragraph (6), any local educational agency may certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the status of the child as a member of a household that is receiving

food stamps under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

‘(6) USE OR DISCLOSURE OF INFORMATION-

‘(A) IN GENERAL- The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in paragraph (3)(F), (4), or (5), shall be limited to--

‘(i) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (including a regulation promulgated under either Act);

‘(ii) a person directly connected with the administration or enforcement of--

‘(I) a Federal education program;

‘(II) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)); or

‘(III) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the school lunch program under this Act;

‘(iii)(I) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

‘(II) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by this paragraph or paragraph (3)(F), (4), or (5);

‘(iv) a person directly connected with the administration of the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or the State children’s health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.) solely for the purposes of--

‘(I) identifying children eligible for benefits under, and enrolling children in, those programs, except that this subclause shall apply only to the extent that

the State and the local educational agency or school food authority so elect; and

‘(II) verifying the eligibility of children for programs under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

‘(v) a third party contractor described in paragraph (3)(G)(iv).

‘(B) LIMITATION ON INFORMATION PROVIDED-

Information provided under clause (ii) or (v) of subparagraph (A) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits is made or for whom eligibility information is provided under paragraph (3)(F), (4), or (5), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

‘(C) CRIMINAL PENALTY- A person described in subparagraph (A) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

‘(D) REQUIREMENTS FOR WAIVER OF

CONFIDENTIALITY- A State that elects to exercise the option described in subparagraph (A)(iv)(I) shall ensure that any local educational agency or school food authority acting in accordance with that option--

‘(i) has a written agreement with 1 or more State or local agencies administering health programs for children under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.) that requires the health agencies to use the information obtained under subparagraph (A) to seek to enroll children in those health programs; and

‘(ii)(I) notifies each household, the information of which shall be disclosed under subparagraph (A), that the information disclosed will be used only to enroll children in health programs referred to in subparagraph (A)(iv); and

‘(II) provides each parent or guardian of a child in the household with an opportunity to elect not to have the information disclosed.

‘(E) USE OF DISCLOSED INFORMATION- A person to which information is disclosed under subparagraph (A)(iv)(I) shall use or disclose the information only as necessary for the purpose of enrolling children in health programs referred to in subparagraph (A)(iv).

‘(7) FREE AND REDUCED PRICE POLICY STATEMENT-

‘(A) IN GENERAL- After the initial submission, a local educational agency shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the local educational agency.

‘(B) ROUTINE CHANGE- A routine change in the policy of a local educational agency (such as an annual adjustment of the income eligibility guidelines for free and reduced price meals) shall not be sufficient cause for requiring the local educational agency to submit a policy statement.

‘(8) COMMUNICATIONS-

‘(A) IN GENERAL- Any communication with a household under this subsection or subsection (d) shall be in an understandable and uniform format and, to the maximum extent practicable, in a language that parents and legal guardians can understand.

‘(B) ELECTRONIC AVAILABILITY- In addition to the distribution of applications and descriptive material in paper form as provided for in this paragraph, the applications and material may be made available electronically via the Internet.’.

(2) AGREEMENT FOR DIRECT CERTIFICATION AND COOPERATION- Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

‘(u) AGREEMENT FOR DIRECT CERTIFICATION AND COOPERATION-

‘(1) IN GENERAL- Each State agency shall enter into an agreement with the State agency administering the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

‘(2) CONTENTS- The agreement shall establish procedures that ensure that--

‘(A) any child receiving benefits under this Act shall be certified as eligible for free lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and free breakfasts

under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application; and

‘(B) each State agency shall cooperate in carrying out paragraphs (3)(F) and (4) of section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)).’.

(c) FUNDING-

(1) IN GENERAL- On October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to assist States in carrying out the amendments contained in this section and the provisions of section 9(b)(3) of the Richard B. Russell National School Lunch Act (as amended by section 105(a)) \$9,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE- The Secretary shall be entitled to receive, shall accept, and shall use to assist States in carrying out the amendments made by this section and the provisions of section 9(b)(3) of the Richard B. Russell National School Lunch Act (as amended by section 105(a)) the funds transferred under paragraph (1), without further appropriation.

(d) CONFORMING AMENDMENTS-

(1) Effective July 1, 2008, paragraph (5) of section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) (as added by subsection (b)(1)) is amended--

(A) by striking subparagraph (B);

(B) by striking ‘CERTIFICATION- ’ and all that follows through ‘IN GENERAL- ’ and inserting ‘CERTIFICATION- ’; and

(C) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively, and indenting appropriately.

(2) Section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758) (as amended by subsection (a)(1)) is amended--

(A) in subsection (b)(12)(B), by striking ‘paragraph (2)(C)’ and inserting ‘this subsection’; and

(B) in the second sentence of subsection (d)(1), by striking ‘subsection (b) (2)(C)’ and inserting ‘subsection (b)(3)(G)’.

(3) Section 11(e) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(e)) is amended in the first sentence by striking ‘section 9(b)(3)’ and inserting ‘section 9(b)(9)’.

