



Food and
Nutrition
Service

DATE: August 31, 2020
CODE: COVID-19: Child Nutrition Response #56

Braddock
Metro Center

SUBJECT: Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through December 2020¹

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TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

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| Issuing Agency/Office: | FNS/Child Nutrition Programs |
| Title of Document: | Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through December 2020 |
| Document ID: | |
| Z-RIN: | |
| Date of Issuance: | August 31, 2020 |
| Replaces: | N/A |
| Summary: | (1) This waiver allows the Summer Food Service Program and the National School Lunch Program Seamless Summer Option to continue to operate through December 31, 2020. (2) This waiver applies to State agencies administrating and local organizations operating the Summer Food Service Program and the National School Lunch Program Seamless Summer Option. (3) This document relates to 42 U.S.C. 1761(c)(1), (d), and (e), and 7 CFR 225.6(b)(1) and (e)(1). |
| Disclaimer: | The contents of this guidance document have the force and effect of law as authorized by the Families First Coronavirus Response Act (the Act) (P.L. 116-127). |

Pursuant to the authority in Section 2202(a) of the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127) and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is allowing the Summer Food Service Program (SFSP) and the National School Lunch Program (NSLP) Seamless Summer Option (SSO) to continue to operate through December 31, 2020. This waiver is expected to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19). In recent weeks, due to the continued need for social distancing, many States and SFAs are utilizing a virtual or hybrid education model. In addition, schools planning in-person instruction have recognized the need to modify meal

¹ Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this waiver as *not major*, as defined by 5 U.S.C. § 804(2).

service models to ensure student safety. Providing meals through the SFSP/SSO will support these models and not require additional administrative contact or burden for States or operators.

Section 2202(a) of the FFCRA permits the Secretary of Agriculture to establish a waiver for all States for the purposes of providing meals under the Child Nutrition Programs, with appropriate safety measures, as determined by the Secretary.

Under the Richard B. Russell National School Lunch Act, 42 U.S.C. 1761(c)(1), (d), and (e) and Program regulations at 7 CFR 225.6(b)(1) and (e)(1), SFSP and SSO operations are only permitted during the months of May through September, except in cases of unanticipated school closures. However, FNS recognizes that State agencies and local Program operators continue to need additional support and flexibility to continue serving meals safely to children while managing the impacts of COVID–19.

Allowing operation of SFSP/SSO through December 31, 2020, facilitates the safe provision of meals by eliminating the need to collect meal payments, including cash payments, at meal sites, which speeds up service of meals, thereby reducing contact and potential exposure to COVID–19. Operation of SFSP/SSO also facilitates curbside meal pick-up; Program staff may simply keep a count of all meals served, instead of relying on a point-of-service system (POS) —which may be located indoors—to track and claim meals by type. Requiring schools to use a POS to check eligibility and collect payment could expose school food service personnel to hundreds of individuals a day, further increasing risks to both the children, families, and staff. Instead, Program staff could focus on quickly providing meals at meal sites instead of spending time confirming individual student enrollment and eligibility status.

Therefore, pursuant to the waiver authority cited above, FNS waives, for all States, the following requirements thereby allowing SFSP and SSO operations to continue through December 31, 2020:

- Section 13(c)(1) of the NSLA (42 U.S.C. 1761(c)(1)) any language after “Payments shall be made to service institutions only for meals served”;
- At Section 13(d) of the NSLA (42 U.S.C. 1761(d)), the opening clause stating “Not later than April 15, May 15, and July 1 of each year”;
- At Section 13(e) of the NSLA (42 U.S.C. 1761(e)), the opening clause stating “Not later than June 1, July 15, and August 15 of each year”;
- At 7 CFR 225.6(b)(1), the requirement that applications for participation be submitted “by June 15”; and
- 7 CFR 225.6(e)(1) in its entirety.

Consistent with Section 2202(a)(2) of the FFCRA, this waiver applies automatically to all States that elect to use it, without further application. If the State agency elects to implement this waiver, it must notify its respective FNS Regional Office, which will acknowledge receipt. State agencies should inform local Program operators of the flexibilities provided by this waiver as quickly as possible, and work in partnership with

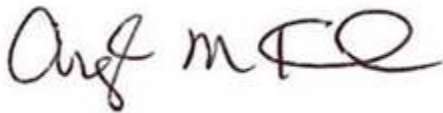
local operators to provide meals to all participants in a safe and accessible manner. Under this waiver, school food authorities may choose to serve meals through the SFSP or SSO, or may opt to participate under the School Meal Programs. This waiver does not require school food authorities to transition to SFSP or SSO operations. Additionally, FNS reserves the right to withdraw this approval subject to availability of funding.

As required by Section 2202(d) of the FFCRA, each State that elects to be subject to this waiver must submit a report to the Secretary not later than 1 year after the date such State elected to receive the waiver. The report must include:

- A summary of the use of this waiver by the State agency and local Program operators, and
- A description of whether and how this waiver resulted in improved services to Program participants.

FNS appreciates the exceptional effort of State agencies and local Program operators working to meet the nutritional needs of participants during a challenging time. State agencies should direct questions to the appropriate FNS Regional Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Ang M Kline". The signature is written in a cursive, flowing style.

Angela M. Kline
Director
Policy and Program Development Division