



Food and
Nutrition
Service

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Braddock
Metro Center

SUBJECT: Nationwide Waiver to Provide Flexibility for School Meal Programs Administrative Reviews of School Food Authorities Operating Only the Seamless Summer Option in School Year (SY) 2021-2022

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TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Nationwide Waiver to Provide Flexibility for School Meal Programs Administrative Reviews of School Food Authorities Operating Only the Seamless Summer Option in School Year (SY) 2021-2022.
Document ID:	
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Date of Issuance:	May 21, 2021
Replaces:	N/A
Summary:	(1) This waiver facilitates State agencies abilities to conduct a school meal programs administrative review when a School Food Authority is only operating the National School Lunch Program Seamless Summer Option in SY 2021-2022. (2) This waiver applies to State agencies administrating, and local organizations operating the National School Lunch Program Seamless Summer Option in school year 2021-2022. (3) This document relates to 42 U.S.C. 1769c and 7 CFR 210.18.
Disclaimer:	The contents of this waiver have the force and effect of law as authorized by the Families First Coronavirus Response Act (the Act) (P.L. 116-127), as extended by the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159), unless otherwise provided.

Pursuant to the authority in Section 2202(a) of the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127), as extended by the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159), and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is establishing a waiver of certain school meal programs administrative review criteria in order to ensure that State agencies are able to conduct administrative reviews when school food authorities (SFAs) are only operating the National School Lunch Program (NSLP) Seamless Summer Option (SSO) in school year (SY) 2021-2022. On April 20,

2021, FNS issued the [*Nationwide Waiver to Allow the Seamless Summer Option through School Year 2021-2022*](#)¹ allowing SFAs to operate the SSO throughout SY 2021-2022 and this waiver is intended to operate in conjunction with that flexibility.

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.

The National School Lunch Act (NSLA), 42 U.S.C. 1769(c) establishes a unified accountability system, known as the administrative review, and program regulations at 7 CFR 210.18 establish requirements for conducting administrative reviews of SFAs operating the school meal programs. Administrative review procedures found at 7 CFR 210.18, that are applicable to SSO, must be followed when states conduct reviews of SFAs operating the SSO throughout SY 2021-2022.² These review procedures are outlined below. In addition to these requirements, 7 CFR 210.18(e)(3)(ii) outlines the requirement that one site from a SFA operating SSO must be reviewed the summer before or the summer after an administrative review is scheduled. While many aspects of the administrative review will be applicable to SFAs that implement SSO during school year 2021-2022, FNS recognizes that the flexibilities, discussed below, will be critical for SFAs that are only operating SSO to ensure the provision of meals with appropriate safety measures. Only administrative reviews that meet all review criteria that are applicable to SSO in 7 CFR 210.18, and as outlined below, can be counted towards the review cycle requirements of the NSLA found at 42 USC 1769c(b)(1)(C)(i) and the regulatory requirements found at 7 CFR 210.18(c).

Given this, FNS recognizes that State agencies need additional support and flexibilities to continue conducting oversight in SY 2021-2022 in order to help ensure that students receive much needed safe, nutritious, and healthy meals and snacks throughout the school day during the current public health emergency. Ensuring program integrity through SSO administrative reviews during SY 2021-2022 is an important component of making sure that children are receiving healthy meals with appropriate safety measures. This waiver also facilitates the safe provision of meals by supporting State agency and program operator participation in SSO during SY 2021-2022, which eliminates the need to collect meal payments, including cash payments, at meal sites. In addition, providing flexibility for the criteria reviewed during an administrative review and alleviating oversight challenges will ensure that State agencies are able to further reallocate their limited staffing resources to meal service and relevant COVID-19 response activities, rather than expending those resources on the completion of certain reporting requirements. While the

¹ The burden associated with the Nationwide Waiver to Allow the Seamless Summer Option through School Year 2021-2022, the reporting for this waiver, and the requirement to elect participation in the Nationwide Waiver will be included in an upcoming change request to OMB Control #0584-0654 FNS Information Collection Needs due to COVID-19 (1/31/22).

² The burden associated with administrative reviews for the National School Lunch Program Seamless Summer Option is included at OMB Control # 0584-0006, Information Collection for the National School Lunch Program – Part 210 (7/31/23).

operation of SSO is critical in order to help schools safely serve meals and continue to respond to the current public health emergency, proper oversight of the programs cannot be maintained without the flexibilities provided for in this waiver. This waiver helps facilitate the ability of schools and State agencies to maintain oversight of programs that help facilitate meals being served with appropriate safety measures.

Therefore, pursuant to the waiver authority cited above, FNS waives, for all States, the following regulations in order to provide State agencies with the ability to provide oversight and monitoring of the school meal programs while an SFA is operating only SSO when school is open during the regular school year 2021-2022:

- 7 CFR 210.18(e)(3)(ii) the requirement to review at minimum one site from an SFA operating SSO the summer before or after the school year in which the administrative review is scheduled. Under this waiver, the general requirement to review SSO is still in place, and in lieu of normal review timing, States instead will review SSO operations at a number of sites consistent with a normal school year; and
- 7 CFR 210.18(g)(2)(ii) the regulatory provision regarding dietary specifications that pertains to the State agency not being required to assess compliance with the dietary specifications when reviewing meals for the NSLP's SSO. Under this waiver, States instead must review dietary specifications during the operation of SSO and complete reviews of SFAs that are only operating SSO.

Administrative Reviews in SY 2021-2022

Per 7 CFR 210.18(a), State agencies must follow the review requirements within 7 CFR 210.18, as applicable, when conducting reviews of SSO. FNS wants to ensure State agencies are able to conduct comprehensive oversight to ensure program integrity in SY 2021-2022. To do this, when conducting administrative reviews of SFAs operating SSO in SY 2021-2022, State agencies must continue to implement the following sections as outlined in 7 CFR 210.18 that remain applicable to SFAs operating SSO, including:

- 7 CFR 210.18(a) Programs covered and methodology;
- 7 CFR 210.17(b) Definitions;
- 7 CFR 210.18(c) Timing of review;
- 7 CFR 210.18(d) Scheduling SFAs for review;
- 7 CFR 210.18(e) Number of schools to review, except for the provisions discussed below;
- 7 CFR 210.18(f); Scope of review;
- 7 CFR 210.18(g); Critical areas of review, except for the provisions discussed below;
- 7 CFR 210.18(h) general areas, except for the provisions discussed below;
- 7 CFR 210.18(i) Entrance and exit conferences and notification;
- 7 CFR 210.18(j) Corrective action;
- 7 CFR 210.18(k) Withholding payment;
- 7 CFR 210.18(l) Fiscal action;

- 7 CFR 210.18(m) Transparency requirement;
- 7 CFR 210.18(n) Reporting requirement;
- 7 CFR 210.18(o) Recordkeeping;
- 7 CFR 210.18(p) School food authority appeal of State agency findings;
- 7 CFR 210.18(q) FNS review activity.

The following regulations are normally part of the administrative review process, but are generally not applicable to SFAs that are only operating SSO the entire school year. Therefore, unless otherwise indicated, the below review requirements do not apply when conducting administrative reviews of SFAs that are only operating SSO in SY 2021-2022:

- 7 CFR 210.18(e)(1) the requirement to review all schools with a free average daily participation of 100 or more and a free participation factor of 100 percent or more. The requirement that State agencies must review at least one school from each local education agency, and no less than minimum number of schools in Table A in 7 CFR 210.18(e)(1), is still in place;
- 7 CFR 210.18(e)(2) requirements regarding school selection criteria based on free average daily participation, therefore providing states discretion to select which sites to review;
- 7 CFR 210.18(g)(1) the requirement that the State agency must follow FNS review procedures to ensure that the SFA's certification and benefit issuance processes for school meals offered under the NSLP, and School Breakfast Program (SBP) are conducted. The rest of the regulatory citation requirements that are applicable to SSO are still in place;
- 7 CFR 210.18 (g)(1)(i) the requirements regarding certification and benefit issuance that are not applicable to SSO;
- 7 CFR 210.18(h)(1)(ii) the requirement that the State agency must review compliance with the requirements for pricing paid lunches in §210.14(e); and
- 7 CFR 210.18(h)(2)(i)(A)-(E) the requirements regarding the free and reduced price process.

It is important to note that the above only applies when States agencies are reviewing SFAs that are operating only SSO in SY 2021-2022. If an SFA is operating normal NSLP and SBP, the State agency must meet all of the review requirements outlined in 7 CFR 210.18.

Additionally, this waiver and the above guidance is only applicable in SY 2021-2022 while SFAs are only operating SSO when school is open during the regular school year. Upon the expiration of this waiver, State agencies must return to normal monitoring as outlined in 7 CFR 210.18.

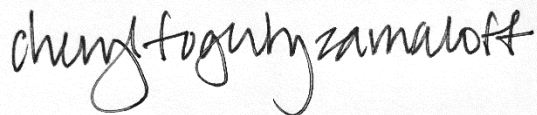
As a reminder, FNS has offered the [Nationwide Waiver of Onsite Monitoring Requirements in the School Meals Programs – Revised – EXTENSION 3³](#) to allow for continued offsite monitoring in order to support public health measures during the COVID-19 pandemic. States may choose to implement both waivers in order to conduct offsite administrative reviews of SFAs that operate SSO.

Consistent with Section 2202(a)(2) of the FFCRA, this waiver applies automatically to all States that elect to use it, without further application. State agencies must elect to be subject to this waiver in order to use it. If the State agency elects to implement this waiver, it must notify its respective FNS Regional Office, which will acknowledge receipt.

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 include⁴:

- A summary of the use of this waiver by the State agency 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.



Cheryl Fogerty Zamaloff
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³The burden associated with the Nationwide Waiver of Onsite Monitoring Requirements in the School Meals Programs, and the requirement to elect participation in the nationwide waiver will be included in an upcoming change request to OMB Control #0584-0654 FNS Information Collection Needs due to COVID-19 (1/31/22). OMB Control #0584-0607 (expires 8/31/22) covers the reporting requirements of this waiver under the Paperwork Reduction Act.

⁴ The burden associated with the reporting for the Nationwide Waiver to Provide Flexibility for School Meal Programs Administrative Reviews of School Food Authorities Operating Only the Seamless Summer Option in School Year (SY) 2021-2022 will be included in an upcoming change request to OMB Control #0584-0654 FNS Information Collection Needs due to COVID-19 (1/31/22).