



Food and  
Nutrition  
Service

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DATE: May 14, 2021

MEMO CODE: SP 11 -2021, CACFP 10 -2021, SFSP 06 -2021

SUBJECT: Consolidated Appropriations Act, 2021: Effect on Child Nutrition Programs- REVISED<sup>1</sup>

TO: Regional Directors  
Special Nutrition Programs  
All Regions

State Directors  
Child Nutrition Programs  
All States

<b>Issuing Agency/Office:</b>	FNS/Child Nutrition Programs
<b>Title of Document:</b>	Consolidated Appropriations Act, 2021: Effect on Child Nutrition Programs
<b>Document ID:</b>	
<b>Z-RIN:</b>	
<b>Date of Issuance:</b>	May 5, 2021, Revised edition May 14, 2021
<b>Replaces:</b>	N/A
<b>Summary:</b>	(1) This memorandum provides notice to Child Nutrition Program operators regarding Sections 743, 764, 767, and 789 of Division A of the Consolidated Appropriations Act, 2021 (Public Law 116-260), which: allows the substitution of vegetables for fruits under the School Breakfast Program; prohibits funds from being used to procure raw or processed poultry products from the People’s Republic of China in Child Nutrition Programs; provides guidance related to pricing of paid lunches for the National School Lunch Program, during school year 2021-2022; and allows the offering of low-fat (1% fat) flavored milk in the National School Lunch Program and School Breakfast Program. (2) This memorandum applies to State agencies administering, and local organizations operating, Child Nutrition Programs.
<b>Disclaimer:</b>	<b>The contents of this guidance document have the force and effect of law as authorized by the Consolidated Appropriations Act, 2021 (Public Law 116-260).</b>

This memorandum provides notice to Child Nutrition Program operators regarding Sections 743, 764, 767, and 789 of Division A of the Consolidated Appropriations Act,

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

2021 (Public Law 116-260) (the Appropriations Act), enacted on December 21, 2020. This revised memorandum applies to State agencies administering, and local organizations operating the Federal Child Nutrition Programs discussed below. It is revised to correct the timeframe intended by Congress for Section 743.

In Section 743, Division A of the Appropriations Act, Congress provides that school food authorities (SFAs) participating in the School Breakfast Program (SBP) may credit any vegetable offered, including potatoes and other starchy vegetables, in place of fruit without including vegetables from other subgroups in the weekly menu. This flexibility is effective for School Years 2020-2021 and 2021-2022, and provides additional flexibility in planning breakfast menus, but, does not require SFAs to make any menu changes.

In Section 764, of Division A of the Appropriations Act, Congress provides that funds made available by the Appropriations Act cannot be used to procure raw or processed poultry products imported into the United States from the People's Republic of China for use in the Child Nutrition Programs. Consistent with the terms of the Appropriations Act, this memorandum provides notice to Child Nutrition Program operators that Program funds may not be used to procure raw or processed poultry products from the People's Republic of China. This extends the existing prohibition through September 30, 2021.

Under Section 767, of Division A of the Appropriations Act, for school year 2021-2022, only a school food authority that had a negative balance in the nonprofit school food service account as of December 31, 2020, shall be required to establish a price for paid lunches served through the National School Lunch Program (NSLP) in accordance with section 12(p) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(p)).

In Section 789, of Division A of the Appropriations Act, Congress provides that none of the funds made available by the Appropriations Act or any other act may be used to restrict the offering of low-fat (1% fat) flavored milk in the NSLP and SBP as long as such milk is not inconsistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990. This flexibility is effective through September 30, 2021, and provides additional flexibility in planning school breakfast and lunch menus; but, does not require SFAs to make any menu changes.

Regional Directors

State Directors

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State agencies must distribute this memorandum to Program operators. Program operators with questions should contact their State agency. State agencies with questions may contact the appropriate Food and Nutrition Service Regional Office.

**Original Signed**

**Original Signed**

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