



Food and Nutrition Service

Braddock Metro Center

1320 Braddock Place Alexandria VA 22314

DATE: June 8, 2020

CODE: COVID-19: Child Nutrition Response #26

SUBJECT: Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION 2¹

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 Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION |
| Document ID: | |
| Z-RIN: | |
| Date of Issuance: | June 8, 2020 |
| Replaces: | N/A |
| Summary: | (1) FNS waives, for all States, the requirements to serve meals that meet the meal pattern requirements during the public health emergency due to COVID-19. This waiver extends the Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION granted on May 14, 2020 that expires on July 31, 2020. (2) This waiver applies to State agencies administering, and local organizations operating, the: National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, and Summer Food Service Program. (3) This document relates to 7 CFR 210.10(b) and (c), 220.8(b) and (c), 225.16(d), and 226.20. |
| 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 section 2202(a) of the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127) and in light of the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is extending a nationwide waiver to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19). This extension of *Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs*, issued March 25, 2020, and *Nationwide*

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).

Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION, issued April 21, 2020 and extended on May 14, 2020 to waive the requirements until June 30, 2020 applies to the National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, and Summer Food Service Program (the Child Nutrition Programs).

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 Program regulations at 7 CFR 210.10(b) and (c), 220.8(b) and (c), 225.16(d), and 226.20, Child Nutrition Program meals must meet meal pattern requirements. However, FNS recognizes that, in this public health emergency, appropriate safety measures are necessary. Therefore, for all States, FNS extends its waiver of the requirements at 7 CFR 210.10(b) and (c), 220.8(b) and (c), 225.16(d), and 226.20, to serve meals that meet the meal pattern requirements during the public health emergency.

Consistent with section 2202(a)(2) of the FFCRA, this waiver is automatically available to all States that elect to use it, without further application. If the State agency elects to implement these flexibilities, it must notify its respective FNS Regional Office, which will acknowledge receipt. However, in order to participate under this waiver, local Program operators must contact the State agency for approval to utilize this waiver. Elections and approvals under the initial waiver will continue under this extension; no further action is needed.

When reviewing requests from local Program operators, the State agency should consider requests that are targeted and justified based upon disruptions to the availability of food products resulting from unprecedented impacts of COVID–19. FNS expects and strongly encourages Program operators to maintain and meet the nutrition standards for each Program to the greatest extent possible. FNS stands ready to provide technical assistance and to offer alternatives to help Program operators meet the meal patterns. As a reminder, Federal procurement regulations at 2 CFR 200.320(f) allow procurement by noncompetitive proposals when there is a public emergency.

State agencies should inform local Program operators of the extension of this waiver as quickly as possible, and work in partnership with them to determine if this waiver is necessary to ensure access to nutritious meals. The State agency must approve use of this waiver on a case-by-case basis, and must report to the FNS Regional Office when and where this waiver is in effect and for what food components.

This waiver extension remains in effect until July 31, 2020. FNS is offering this flexibility in short-term increments and will reevaluate the continued need for the waiver as the situation continues to evolve.

As required by section 2202(d), 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 received 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 stands ready to provide assistance to areas impacted by COVID-19, and intends to continue supporting access to nutritious meals.

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