



Food and  
Nutrition  
Service

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DATE: October 9, 2020

CODE: COVID-19: Child Nutrition Response #70

SUBJECT: Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION #5<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>	Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION #5
<b>Document ID:</b>	
<b>Z-RIN:</b>	
<b>Date of Issuance:</b>	October 9, 2020
<b>Replaces:</b>	Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION #5
<b>Summary:</b>	(1) FNS waives, for all States, the requirements to serve meals that meet the meal pattern requirements during school year 2020-2021. This waiver revises the <i>Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION #4</i> granted on June 25, 2020, for all programs except the Summer Food Service Program. (2) This waiver applies to State agencies administering, and local organizations operating, the National School Lunch Program, School Breakfast Program, and Child and Adult Care Food Program. (3) This document relates to 7 CFR 210.10(b), (c) and (d)(1)(i); 220.8(b), (c), (d); and 226.20.
<b>Disclaimer:</b>	<b>The contents of this guidance document have the force and effect of law as authorized by the Families First Coronavirus Response Act (P.L. 116-127).</b>

This memorandum revises and replaces the current USDA Food and Nutrition Service (FNS) Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION #4. This memorandum supersedes COVID-19: Child Nutrition Response #36, dated June 25, 2020.

<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 waiver as *not major*, as defined by 5 U.S.C. § 804(2).

Pursuant to 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 extending a nationwide waiver to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19) for school year (SY) 2020-2021. This waiver extends the *Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION 4*, granted on June 25, 2020. This waiver extension applies to the National School Lunch Program (NSLP), School Breakfast Program (SBP), and Child and Adult Care Food Program (CACFP). As provided for in the *Nationwide Waiver to Allow Meal Pattern Flexibility in the Summer Food Service Program and the National School Lunch Program Seamless Summer Option - EXTENSION 8*, granted on October 9, 2020, the waiver for the Summer Food Service Program and NSLP Seamless Summer Option remains in effect until June 30, 2021.

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), and 226.20, NSLP, SBP, and CACFP meals must meet meal pattern requirements. However, FNS recognizes that, for school year 2020-2021, appropriate safety measures are necessary. Therefore, for all States, FNS is establishing a waiver of the requirements at 7 CFR 210.10(b) and (c), 220.8(b) and (c), and 226.20, to serve meals that meet the meal pattern requirements. In addition, FNS also waives the requirement at 7 CFR 210.10(d)(1)(i) and 220.8(d) that schools must offer students a variety (at least two different options) of fluid milk. All other fluid milk requirements remain in effect. This waiver is effective July 1, 2020, through June 30, 2021.

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 for SY 2020-2021, 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 for SY 2020-2021.

When reviewing requests from local Program operators, the State agency should consider requests that are targeted and justified based on plans to support access to nutritious meals while minimizing potential exposure to COVID-19 during SY 2020-2021. 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.

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 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