



Food and
Nutrition
Service

Braddock
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DATE: October 9, 2020

CODE: COVID-19: Child Nutrition Response #63

SUBJECT: Nationwide Waiver to Allow Meal Pattern Flexibility in the Summer Food Service Program and the National School Lunch Program Seamless Summer Option - EXTENSION 8¹

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 Allow Meal Pattern Flexibility in the Summer Food Service Program and the National School Lunch Program Seamless Summer Option – EXTENSION 8
Document ID:	
Z-RIN:	
Date of Issuance:	October 9, 2020
Replaces:	N/A
Summary:	(1) FNS waives, for all States, the requirements to serve Summer Food Service Program and National School Lunch Program Seamless Summer Option 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 Summer Food Service Program – EXTENSION 7, granted on August 31, 2020, that expires on December 31, 2020. (2) This waiver applies to State agencies administering, and local organizations operating, the National School Lunch Program Seamless Summer Option and the Summer Food Service Program (3) This document relates to 7 CFR 210.10(b) and (c), 7 CFR 210.10(d)(1), 220.8(b) and (c), 220.8(d) and 7 CFR 225.16(d).
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), as extended by the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159).

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).

Pursuant to 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 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 waiver extends the *Nationwide Waiver to Allow Meal Pattern Flexibility in the Summer Food Service Program – EXTENSION 7*—granted on August 31, 2020, that expires on December 31, 2020—through June 30, 2021, in conjunction with the *Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021 – EXTENSION*, granted October 9, 2020. This waiver extension applies to the Summer Food Service Program (SFSP) and the National School Lunch Program (NSLP) Seamless Summer Option (SSO).

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), 7 CFR 210.10(d)(1), 220.8(b) and (c), 220.8(d), and 7 CFR 225.16(d), SSO and SFSP meals must meet meal pattern and fluid milk 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), and 7 CFR 225.16(d) to serve meals that meet the meal pattern requirements. In addition, this waiver also waives the requirement at 7 CFR 210.10(d)(1) 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 extension is effective immediately, supersedes the previous extension, and remains in effect until June 30, 2021, in conjunction with the *Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021 – EXTENSION*, granted October 9, 2020.

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 on plans to support access to nutritious meals while minimizing potential exposure to 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.

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 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