



Food and Nutrition Service

Braddock Metro Center

1320 Braddock Place Alexandria VA 22314

DATE: October 14, 2020

MEMO CODE: SP 01-2021, CACFP 01-2021, SFSP 01-2021

SUBJECT: Questions and Answers Relating to the Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021 – EXTENSION – Q&As #2

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:	Questions and Answers Relating to the Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021 – EXTENSION – Q&As #2
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Date of Issuance:	October 14, 2020
Replaces:	N/A
Summary:	(1) This memorandum provides clarification on additional questions related to operation of the National School Lunch Program, School Breakfast Program, National School Lunch Program Seamless Summer Option, Summer Food Service Program, and Child and Adult Care Food Program during the COVID-19 pandemic. (2) This memorandum applies to State agencies administering, and local organizations operating the National School Lunch Program, School Breakfast Program, National School Lunch Program Seamless Summer Option, Summer Food Service Program, and Child and Adult Care Food Program during the COVID-19 pandemic. (3) This document relates to 7 CFR Parts 210, 220, 225, and 226.
Disclaimer:	The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.


This memorandum includes questions and answers intended to provide clarification to State agencies and Program operators as they operate the National School Lunch Program (NSLP), School Breakfast Program (SBP), NSLP Seamless Summer Option (SSO),

Summer Food Service Program (SFSP), and Child and Adult Care Food Program (CACFP) in the coming months, during the COVID-19 pandemic.

Pursuant to the Families First Coronavirus Response Act of 2020 (P.L. 116-127), and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) has issued several nationwide waivers and has exercised existing statutory and regulatory authorities to support access to nutritious meals while minimizing potential exposure to the novel coronavirus. Additional information on the FNS Response to COVID-19 is available at <https://www.fns.usda.gov/disaster/pandemic/covid-19>.

FNS appreciates the exceptional effort of State agencies and local Program operators working to meet the nutritional needs of child and adult participants during a challenging time. State agencies are reminded to distribute this memorandum to Program operators immediately. Program operators should direct any questions concerning this guidance to their State agency. State agencies with questions should contact 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

Questions and Answers

- 1. In my school district, school food authorities (SFAs) have traditionally used the National School Lunch Program Seamless Summer Option (SSO) and non-SFA partners have traditionally used the Summer Food Service Program (SFSP). Should the State agency transition SFAs new to the summer feeding programs to SSO only?**

In States that are operating under the *Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021—EXTENSION*, October 9, 2020, <https://www.fns.usda.gov/cn/covid-19-response-59>, SFAs have the choice to operate either the SFSP or the SSO. The State agency may approve the operation of either program. The State agency and SFA should work together to determine which program best meets the needs of the community and ensure that the programs are operated according to the relevant program requirements.

- 2. Are all sponsors expected to operate open sites that serve all children in the community?**

No, during the current COVID-19 pandemic, all sponsors are not expected to operate open sites that serve all children in the community. The nationwide waivers provide sponsors the flexibility to design SFSP/SSO operations that meet the particular needs of the communities they serve. A State agency's approval of the sponsor's determination of site type may be based on: the mode of instructional delivery, such as in-person, virtual, or hybrid; the health, safety, and space constraints at sites; other feeding options available to children who are not enrolled in school; and their resources and capabilities.

- 3. Can SFAs operate closed enrolled sites and limit enrollment to their own students?**

While FNS encourages SFAs to serve the community during normal summer operations, FNS recognizes the unique operational challenges caused by the COVID-19 pandemic. SFAs operating SFSP/SSO during the regular school year during COVID-19 may decide to operate closed enrolled sites that limit participation to only students enrolled at the school site. Regulations at 7 CFR 225.14(d)(2) specify that summer school sites must be open to enrolled children and children residing in the area served by the site. However, this requirement is specific to summer school sessions, and does not apply to schools operating SFSP/SSO during the regular school year during COVID-19.

4. How does the SFSP/SSO extension impact the 30-day eligibility carryover period?

The eligibility carryover period is paused during SFSP/SSO operations. Eligibility carryover allows children to maintain their prior school year eligibility status for up to 30 operating days into the subsequent school year (7 CFR 245.6(c)(1) and (2)). “Operating day” is defined as a day that reimbursable meals are offered to eligible students under the NSLP or SBP (7 CFR 245.2). Schools that did not have any NSLP/SBP operating days at the start of SY 2020-2021 may begin the 30-day eligibility carryover period if they transition to NSLP/SBP. This includes schools that had been operating NSLP/SBP at the start of the school year, but retroactively claimed any NSLP/SBP meals as SFSP/SSO meals.

Schools that had a limited number of NSLP/SBP operating days at the start of SY 2020-2021 must deduct any days where NSLP or SBP meals were served and claimed from the 30-day eligibility carryover period. However, these schools may resume the remainder of the eligibility carryover period if they transition back to NSLP/SBP.

5. To the extent that the waivers granted by USDA on August 31, 2020, affect programs in the Elementary and Secondary Education Act of 1965 (ESEA) administered by the U.S. Department of Education (ED), such as the Title I, Part A (Title I) program, are USDA and ED working together to provide information to stakeholders?

Yes. Similar to prior instances when there have been changes to the school meals program (e.g., the implementation of the Community Eligibility Provision) that also affect ESEA programs such as Title I, USDA and ED are coordinating on the best ways to provide timely information to stakeholders, recognizing that the potential effects of the waivers on implementation of ESEA programs will primarily be for the 2021-2022 school year. USDA encourages stakeholders with questions about the waivers and ESEA programs to contact ED at: OESE.titlei-a@ed.gov.

6. May schools operating SFSP/SSO during the school year sell a la carte food items and beverages?

Yes, schools operating SFSP/SSO during the school year under the *Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021 – EXTENSION*, October 9, 2020, <https://www.fns.usda.gov/cn/covid-19-response-59> may sell a la carte foods and beverages as long as they continue to meet the competitive foods requirements. Foods and beverages sold in competition with reimbursable meals on the school campus during the school day must meet the competitive food standards described at 7 CFR 210.11, regardless of whether the school is operating NSLP/SBP or SFSP/SSO (7 CFR 210.11(b)(3)). For the purpose of the competitive food standards:

- The *school campus* means all areas of the property under the jurisdiction of the school that are accessible to students during the school day (7 CFR 210.11(a)(4)).
- The *school day* means the period from the midnight before, to 30 minutes after the end of the official school day (7 CFR 210.11(a)(5)).

Schools that are operating grab and go sites in areas outside of the school campus, or providing meals before or after the official school day, are not required to meet the competitive food standards. SFAs must meet nonprofit food service account requirements outlined in 7 CFR 210.14 for those operating SSO and 7 CFR 225.15(4) for those operating SFSP. Additionally, State agencies and/or local educational agencies may impose additional restrictions on competitive foods, provided that they are not inconsistent with Federal requirements (7 CFR 10.11(b)(1)).

7. Can the NSLP afterschool snack service operate simultaneously with SFSP/SSO?

Yes. The NSLP afterschool snack service, which operates during the regular school year, may operate simultaneously with the SFSP/SSO during implementation of *Nationwide Waiver to Allow Summer Food Service program and Seamless Summer Option Operations through School Year 2020-2021 – EXTENSION*, October 9, 2020 <https://www.fns.usda.gov/cn/covid-19-response-59>. As noted in *SP 13, CACFP 07, SFSP 06-2020: Child Nutrition Program Nationwide Waivers: Questions and Answers*, issued April 11, 2020, <https://www.fns.usda.gov/cn/covid-19/nationwide-waivers-qas>, Program operators may participate in multiple Programs. However, in no circumstances may children receive more than the numbers of reimbursable meals allowed in each Program for which they are eligible. Although schools generally must operate the NSLP in order to operate the NSLP afterschool snack service, FNS recognizes that for the duration of operations under the waiver, schools may be serving breakfasts and lunches through SFSP/SSO.

Similar to the at-risk afterschool meals component of the CACFP, schools that are offering non-congregate meals may meet the requirement to offer an enrichment activity with the NSLP snack service virtually or in other non-congregate ways. See Question 18 of *SP 24, CACFP 13, SFSP 13-2020: Questions and Answers for the Child Nutrition Programs during School Year 2020-2021 – #5*, issued August 21, 2020, <https://www.fns.usda.gov/disaster/pandemic/covid-19/questions-and-answers-child-nutrition-programs-during-sy-2020-21>.

8. May CACFP At-Risk sites/sponsors that did not serve weekend meals prior to COVID-19 expand to provide weekend meals with a non-congregate enrichment activity?

Yes. Consistent with 7 CFR 226.17a(b), CACFP at-risk centers that provide care for children on weekends during the regular school year may claim meals served on

weekends. However, in making decisions about whether a program should operate on weekends, States, at-risk sponsors, and at-risk centers are encouraged to tailor their operations to the needs of the community; State agencies should review program operations with this in mind. In addition, the State agency must ensure that CACFP at-risk centers serving weekend meals also provide weekend at-risk enrichment activities, either in person or virtually, on the weekend days for which meals are served. For example, if an at-risk center serves meals intended for consumption on Saturday, they must provide access to an enrichment activity on that Saturday.

9. For CACFP at-risk afterschool care programs that are providing on-site care to children attending school virtually, what meals may be served?

Per Federal regulations at 7 CFR 226.17a(m), when school is in session, a CACFP at risk meal and/or snack must be served after the child's school day. Schools that are operating virtually are considered to be in session; therefore, the afterschool program would need to plan their meal service around the time the virtual school is operating. Only a meal and/or snack served after the virtual school day is over would be reimbursable.

FNS understands that programs caring for students in virtual school would be in a position to serve meals during the school day. CACFP at-risk afterschool care programs can work with their State agencies to explore operating as an SFSP sponsor or site while the *Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021 – EXTENSION*, October 9, 2020, <https://www.fns.usda.gov/cn/covid-19-response-59>, is in effect. An at-risk program may also be able to apply to operate CACFP as a child care center. Under SFSP or regular CACFP, the program would have more flexibility in when a meal and/or snack could be served; however, only the maximum number of meals allowed under the program would be reimbursable.

10. May CACFP at-risk afterschool programs that are not caring for children on-site provide meals through alternate meal service options?

Yes. Under the nationwide non-congregate feeding and parent pick-up waivers, at-risk programs may provide meal deliveries and grab-and-go meals. If applicable, any State agency meal service times may also need to be waived, using *Nationwide Waiver to Allow Meal Service Time Flexibility in the National School Lunch Program, School Breakfast Program, and Child and Adult Care Food Program – Extension #2*, June 25, 2020 <https://www.fns.usda.gov/cn/nationwide-waiver-extension2-meal-service-time-flexibility>. In all instances some type of enrichment activity must be included (refer to question #18 in SP 24-2020, CACFP 13-2020, SFSP 13-2020, *Questions and Answers for the Child Nutrition Programs during School Year 2020-2021 - #5*, <https://www.fns.usda.gov/disaster/pandemic/covid-19/questions-and-answers-child-nutrition-programs-during-sy-2020-21>). In addition,

when meals are being provided for children that are not in on-site care, at-risk suppers and/or snacks may be distributed before the end of the school instructional day.

For meal deliveries, the processes outlined in questions #9 – 13 in SP 14-2020, CACFP 08-2020, SFSP 07-2020, *Child Nutrition Program Meal Service during Novel Coronavirus Outbreak: Question and Answers #3* <https://www.fns.usda.gov/cn/covid-19/meal-service-during-novel-coronavirus-outbreaks-qas> must be followed. Please note that meal deliveries would be limited to children that are enrolled in the at-risk afterschool care program. Therefore, the program would need to collect appropriate information in order to make and track deliveries.

11. May a child care center or day care home claim reimbursement for CACFP meals that children take home to consume on weekend days when they are not in care?

CACFP centers and day care homes that are approved for non-congregate feeding and meal service time flexibility may provide meals for a child to consume on weekends, as long as the facility is approved to serve meals on weekends and the child is enrolled for weekend care. That means the facility must be licensed and approved to provide weekend care, even if the center or day care home is not providing care on-site due to COVID-19. The State-sponsor agreement must indicate the days and types of meals for which the facility is eligible to claim reimbursement. For example, if a facility is licensed to provide child care 7 days a week and a child is enrolled to attend child care Thursday through Saturday, the facility may claim meals served to the child on those days, even if the child is not physically in care due to COVID-19.