



Food and  
Nutrition  
Service

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**DATE:** September 22, 2021

**CODE:** COVID-19: Child Nutrition Response #101

**SUBJECT:** Nationwide Waiver to Allow Non-Congregate Meal Service for Service Institutions Operating the Summer Food Service Program during Unanticipated School Closures in School Year 2021-2022

**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 Non-Congregate Meal Service for Service Institutions Operating the Summer Food Service Program during Unanticipated School Closures in School Year 2021-2022
<b>Document ID:</b>	
<b>Z-RIN:</b>	
<b>Date of Issuance:</b>	September 22, 2021
<b>Replaces:</b>	N/A
<b>Summary:</b>	(1) Under this waiver, Summer Food Service Program service institutions in States that elect to be subject to this waiver may provide non-congregate meals during COVID-19 operations during unanticipated school closures in school year 2021-2022. (2) This waiver applies to State agencies administering, and service institutions operating, the Summer Food Service Program. (3) This document relates to 7 CFR 225.6(e)(15).

Pursuant to 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 based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is establishing a nationwide waiver to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19) in school year 2021-2022. This waiver applies to service institutions operating the Summer Food Service Program (SFSP) during unanticipated school closures.

Under 42 USC 1761(c)(1), unanticipated school closures only occur when instruction is not provided to children. If a school plans to offer virtual learning or a mix of in-person

classes and virtual learning, the school is considered open and any meals provided to children must be offered through the Seamless Summer Option (SSO) under [COVID-19: Child Nutrition Response #85, Nationwide Waiver to Allow the Seamless Summer Option through School Year 2021-2022](#) (or through the National School Lunch Program or School Breakfast Program for schools that have not elected Child Nutrition Response #85).

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 225.6(e)(15), SFSP meals must be served in a congregate setting and must be consumed by participants on site. However, FNS recognizes that in this public health emergency, waiving the congregate meal requirements is vital to ensure appropriate safety measures for the purpose of providing meals and snacks during unanticipated school closures. The flexibility to provide non-congregate meals will give service institutions the opportunity to provide meal pick-up options, which allow for social distancing.

Therefore, pursuant to the FFCRA authority cited above, FNS waives, for all States, the requirements at 7 CFR 225.6(e)(15) to serve SFSP meals and snacks in a congregate setting during unanticipated school closures in school year 2021-2022. Any other requirements referenced in these provisions remain in effect. This waiver is effective for service institutions on October 1, 2021, and remains in effect through June 30, 2022.

Consistent with Section 2202(a)(2) of the FFCRA, this approval applies automatically to all States that elect to use it, without further application. If the State agency elects to implement this waiver, it must notify its respective FNS Regional Office, which will acknowledge receipt. State agencies should inform local operators of these flexibilities as quickly as possible,<sup>1</sup> and work in partnership with local operators to provide meals to all participants in a safe and accessible manner.

Please note, State agencies that have already elected non-congregate feeding flexibilities under COVID-19 Child Nutrition Response #87: *Nationwide Waiver to Allow Non-Congregate Meal Service for School Year 2021-2022*, issued April 20, 2021, may allow school food authorities to operate SSO utilizing non-congregate flexibilities. This new nationwide waiver is applicable to any service institution operating SFSP during unanticipated school closures as defined above.

As required by Section 2202(d) of the FFCRA, each State that elects to be subject to the non-congregate feeding flexibilities must submit a report to the Secretary not later than 1

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<sup>1</sup> The burden associated with the requirement to elect Nationwide Waiver participation will be included in an upcoming change request to OMB Control #0584-0654.

year after the date such State elected to receive the flexibilities.<sup>2</sup> In order to use these flexibilities, local operators must be prepared to provide the State agency with any necessary information to complete the reporting requirements. The report must include:

- A summary of the use of the non-congregate feeding flexibilities by the State agency and local program operators, and
- A description of whether and how the non-congregate feeding flexibilities 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.

For  
Angela M. Kline  
Director  
Policy and Program Development Division

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<sup>2</sup> FNS will submit to OMB for approval a revision to OMB Control #0584-0607 to cover the reporting requirements of this waiver under the Paperwork Reduction Act.