



Food and
Nutrition
Service

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DATE: September 22, 2021

CODE: COVID-19: Child Nutrition Response #105

SUBJECT: Nationwide Waiver to Allow Service of Meals at School Sites during Unanticipated School Closures in School Year 2021-2022

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 Service of Meals at School Sites during Unanticipated School Closures in School Year 2021-2022
Document ID:	
Z-RIN:	
Date of Issuance:	September 22, 2021
Replaces:	N/A
Summary:	(1) Under this waiver, Summer Food Service Program (SFSP) and the National School Lunch Program Seamless Summer Option (SSO) operators in States that elect to be subject to this waiver may serve meals at school sites during unanticipated school closures in school year 2021-2022. (2) This waiver applies to State agencies administering, and local organizations operating, the SFSP and SSO in school year 2021-2022. (3) This document relates to Section 13(c)(1) of the National School Lunch Act (42 U.S.C. 1761(c)(1)) and 7 CFR 225.6(d)(1)(iv).

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 (SY) 2021-2022. This waiver applies to the Summer Food Service Program (SFSP) and to the National School Lunch Program (NSLP) Seamless Summer Option (SSO) during unanticipated school closures.

Under 42 U.S.C. 1761(c)(1), unanticipated school closures only occur when children are not in school. If a school offers 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 SSO under [COVID-19: Child Nutrition Response #85, Nationwide Waiver to Allow the Seamless Summer Option through School Year 2021-2022](#) (or through the NSLP 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 purpose of providing meals under the Child Nutrition Programs, with appropriate safety measures, as determined by the Secretary.

Section 13(c)(1) of The National School Lunch Act (NSLA) and program regulations at 7 CFR 225.6(d)(1)(iv) require State agencies to only approve meal service operations at non-school sites during unanticipated school closures. However, FNS recognizes that site location flexibility is necessary to ensure the provision of meals in a safe manner. Providing site location flexibility during unanticipated school closures will support community efforts to maintain children's access to safe and nutritious meals when schools unexpectedly need to close due to COVID-19.

Therefore, pursuant to the FFCRA authority cited above, FNS waives, for all State agencies that elect to be subject to this waiver, the requirements at Section 13(c)(1) of the NSLA and 7 CFR 225.6(d)(1)(iv) that limit the operation of SFSP and SSO during an unanticipated school closure to non-school sites. This waiver is effective October 1, 2021, and remains in effect through April 30, 2022.

Please note, State agencies that have already received an individual waiver of the requirement that only non-school sites may operate during an unanticipated school closure may elect to be covered by this nationwide waiver during the COVID-19 emergency, in place of their individual waiver¹. If the State agency does not elect this nationwide waiver, then those individual waivers will remain in effect through April 30, 2022.

Consistent with Section 2202(a)(2) of the FFCRA, this waiver 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 this flexibility as quickly as possible,² and work in partnership with them to provide meals to all participants in a safe and accessible manner.

¹State agencies that intend to participate in this nationwide waiver and have been previously approved for a waiver of 7 CFR 225.6(d)(1)(iv) through NSLA 12(l) waiver authority must notify their FNS Regional Office that they are electing to participate in this waiver and withdrawing from participation in their 12(l) waiver. State agencies are responsible for complying with all terms and conditions of their 12(l) waiver for the time period for which they participated.

² The burden associated with the requirement to elect Nationwide Waiver participation will be included in an upcoming change request to OMB Control #0584-0654.

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 elected to receive the flexibilities.³ 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 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.

For
Angela M. Kline
Director
Policy and Program Development Division

³ 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.