



DEPARTMENT OF EDUCATION


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June 22, 2022

MEMORANDUM

TO: Child and Adult Care Food Program (CACFP) Sponsors

FROM: Aimee F. Beam, MS, RD, LDN 
Education Associate, Nutrition Programs

RE: **CACFP 2022 Operational Memo #13**
12(l) Waivers

The United States Department of Agriculture (USDA) has granted approval for Delaware's 12(l) waiver request. It is important to note that these waiver approvals do not mean that all CACFP sites can operate as non-congregate with parent pickup and meal time waivers. **The use of these waivers are limited to situations when congregate meal service is limited by the COVID-19 Pandemic and is not to be applied to all CACFP sites.**

Child and Adult Care Food Program Operations: The waivers in this section apply to CACFP. These waivers are effective July 1, 2022, through June 30, 2023. However, FNS expects that flexibilities under these waivers will only be implemented by Program operators when congregate meal service is limited by the COVID-19 pandemic.

- **Waiver 20: Non-Congregate Meal Service (CACFP)** Under the NSLA, 42 U.S.C. 1753(b)(1)(A) and program regulations at 7 CFR 226.19(b)(6)(iii), CACFP meals must be served in a congregate setting and must be consumed by participants on site. Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the aforementioned requirement to serve meals through CACFP in a congregate setting. Any other requirements referenced in this provision remain in effect.
- **Waiver 21: Parent and Guardian Meal Pick Up (CACFP)** Under Program regulations at 7 CFR 226.2 (Meals), meals must be served to eligible children and eligible adult participants. Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the aforementioned requirement that meals may only be served directly to children and adult participants. Any other requirements referenced in these provisions remain in effect.
- **Waiver 22: Meal Service Times (CACFP)** Under Program regulations at 7 CFR 226.20(k) meals served in the CACFP must follow meal service time requirements. Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the aforementioned requirements that set meal time parameters for CACFP institutions and facilities.

Child and Adult Care Food Program Administration: The waivers in this section are effective when the public health emergency, which was declared on January 31, 2020 by the United States Department of Health and Human Services, ends and continue through June 30, 2023.

- **Waiver 23: State Agency Onsite Monitoring Visits (CACFP)** Under Program statute and regulations, State agencies are required to conduct one scheduled visit of CACFP institutions at not less than 3-year intervals. CACFP regulations at 7 CFR 226.6(m)(6) go on to require State agencies to annually review at least 33.3 percent of all CACFP institutions. Additionally, per 7 CFR 226.6(b)(1), State agencies are required to do a pre-approval visit of all new CACFP sponsors. However, FNS recognizes that as the country continues to respond to COVID-19, onsite monitoring may not be possible. Therefore, pursuant to the Section 12(l) waiver authority cited above, FNS waives the requirement that CACFP monitoring requirements included in 7 CFR 226.6(b)(1) and 226.6(m)(6) be conducted onsite. Please note that to ensure Program integrity during this time, State agencies that elect to use this waiver should continue monitoring activities of Program operations offsite (e.g., through a desk audit).
- **Waiver 24: Sponsoring Organization Onsite Monitoring Visits (CACFP)** Under Program regulations at 7 CFR 226.16(d)(4)(iii), CACFP sponsoring organizations must review each facility three times each year and: 1) at least two of the three reviews must be unannounced; 2) at least one unannounced review must include observation of meal service; 3) at least one review must be made during each new facility's first four weeks of Program operations; and 4) not more than six months may elapse between reviews. However, FNS recognizes that as the country continues to respond to COVID-19, onsite monitoring may not be possible. Therefore, pursuant to the Section 12(l) waiver authority cited above, FNS waives the requirement that CACFP monitoring requirements included in 7 CFR 226.16(d)(4)(iii) be conducted onsite. Please note that to ensure Program integrity during this time, CACFP sponsoring organizations that elect to use this waiver should continue monitoring activities of Program operations offsite (e.g., through a desk audit).

Please note:

- Approval will not be granted for individual children to participate in non-congregate meals when the site is able to serve congregate meals.
- Approval will only be granted for a maximum of two-week increments. Meals served non-congregate without DDOE approval may not be claimed for reimbursement.

To opt into any of these waivers, sponsors must contact Heather Coverdale (heather.coverdale@doe.k12.de.us) or Justine Flint (justine.flint@doe.k12.de.us). The email must contain:

- Site name
- Site address
- COVID related reason for waiver usage
- Dates the waiver will be used (maximum of two weeks)

cc: Nutrition Team