



DEPARTMENT OF EDUCATION

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Secretary of Education
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July 6, 2020

MEMORANDUM

TO: Child and Adult Care Food Program Sponsors

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

RE: **2020 Operational Memo #22**
Nationwide Waiver to Allow Non-congregate Feeding in the Child Nutrition Programs – Extension #2

On June 25, 2020, the USDA released “COVID-19: Child Nutrition Response #33 Nationwide Waiver to Allow Non-congregate Feeding in the Child Nutrition Programs – EXTENSION #2”. Under this waiver, Child Nutrition Program operators may provide non-congregate meals during COVID-19-related operations throughout school year (SY) 2020-2021.

This waiver extension applies only to the National School Lunch Program (NSLP), School Breakfast Program (SBP), and the Child and Adult Care Food Program (CACFP). This extension does not apply for the Summer Food Service Program (SFSP); the original non-congregate feeding waiver for SFSP remains in effect until August 31, 2020.

It is important to note that **planned** full or partial building closures are not considered unanticipated school closures for SY 2020-2021. All meals served under this waiver must be claimed under the appropriate Program (NSLP, SBP, or CACFP) and may not be claimed under SFSP or the NSLP Seamless Summer Option.

This waiver is effective July 1, 2020 through June 30, 2021. The USDA memo is attached for your review. If your organization chooses to use this waiver you must inform the State Agency by emailing Justine Flint at justine.flint@doe.k12.de.us or Heather Coverdale at heather.coverdale@doe.k12.de.us.

If you have any questions or need assistance, please contact us at 302-857-3356.

Attachment: COVID-19NoncongregateNationwideWaiverSY20-21

cc: Nutrition Team



Food and
Nutrition
Service

Braddock
Metro Center

1320
Braddock
Place
Alexandria
VA 22314

DATE: June 25, 2020

CODE: COVID-19: Child Nutrition Response #33

SUBJECT: Nationwide Waiver to Allow Non-congregate Feeding in the Child Nutrition Programs – EXTENSION #2¹

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 Non-congregate Feeding in the Child Nutrition Programs – EXTENSION #2
Document ID:	
Z-RIN:	
Date of Issuance:	June 25, 2020
Replaces:	N/A
Summary:	(1) Under this waiver, Program operators may provide non-congregate meals during COVID-19-related operations throughout school year 2020-2021. This waiver extends the <i>Nationwide Waiver to Allow Non-congregate Feeding in Child Nutrition Programs</i> granted on May 14 that expires on August 31, 2020, for all programs except the Summer Food Service Program. (2) This waiver applies to State agencies administering, and local organizations operating the National School Lunch Program, School Breakfast Program, and Child and Adult Care Food Program. (3) This document relates to 42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1773(b)(1)(A)(i)(I), and 7 CFR 226.19(b)(6)(iii).
Disclaimer:	The contents of this guidance document have the force and effect of law as authorized by the Families First Coronavirus Response Act (P.L. 116-127).

Pursuant to the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127) and based on 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) for school year (SY) 2020-2021. This waiver extends the *Nationwide Waiver to Allow*

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).

Non-congregate Feeding in Child Nutrition Programs - EXTENSION, granted on May 14 that expires August 31, 2020. This waiver extension applies to the National School Lunch Program (NSLP), School Breakfast Program (SBP), and Child and Adult Care Food Program (CACFP). As provided for in the May 14 extension, the waiver for the Summer Food Service Program remains in effect until August 31, 2020.

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 the Richard B. Russell National School Lunch Act at 42 U.S.C. 1753(b)(1)(A) and the Child Nutrition Act of 1966 at 42 U.S.C. 1773(b)(1)(A)(i)(I), and Program regulations at 226.19(b)(6)(iii), NSLP, SBP, and CACFP meals must be served in a congregate setting and must be consumed by participants on site. However, FNS recognizes that for SY 2020-2021, waiving the congregate meal requirements is vital to ensure appropriate safety measures for the purpose of providing meals and meal supplements.

Therefore, pursuant to the FFCRA authority cited above, FNS waives, for all States, those requirements at 42 U.S.C. 1753(b)(1)(A) and 42 U.S.C. 1773(b)(1)(A)(i)(I), to serve meals through the NSLP and SBP in a congregate setting. FNS also waives, for all States, requirements at 7 CFR 226.19(b)(6)(iii), to serve meals through the CACFP in a congregate setting. This waiver is effective July 1, 2020, through June 30, 2021.

Please note, all meals served pursuant to this waiver and under a planned response to COVID-19 must be claimed under the appropriate operating Program and may not be claimed under the SFSP or the National School Lunch Program Seamless Summer Option. During SY 2020-2021, only meals served during unanticipated school closures may be claimed under SFSP or SSO. Planned full or partial building closures are not considered unanticipated school closures for SY 2020-2021.

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 these flexibilities for SY 2020-2021, it must notify its respective FNS Regional Office, which will acknowledge receipt. State agencies should inform local Program operators of the flexibilities provided by this waiver as quickly as possible, and work in partnership with local operators to provide meals to all participants in a safe and accessible manner.

As required by section 2202(d), 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,



for

Angela M. Kline
Director
Policy and Program Development Division