



DEPARTMENT OF EDUCATION

The Townsend Building
401 Federal Street Suite 2
Dover, Delaware 19901-3639
DOE WEBSITE: <http://www.doe.k12.de.us>

Susan S. Bunting, Ed.D.
Secretary of Education
Voice: (302) 735-4000
FAX: (302) 739-4654

March 26, 2020

MEMORANDUM

TO: Child and Adult Care Food Program Sponsors

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

SUBJECT: **2020 Operational Memo #9**
Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs

USDA has released "COVID-19 Child Nutrition Response #4 - Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs". The memo is attached for your review

Please contact Aimee Beam if you encounter trouble purchasing meal components.

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

Attachment

cc: Nutrition Team



Food and
Nutrition
Service

Braddock
Metro Center

1320
Braddock
Place
Alexandria
VA 22314

DATE: March 25, 2020

CODE: COVID-19: Child Nutrition Response #4

SUBJECT: Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs¹

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 Meal Pattern Flexibility in the Child Nutrition Programs
Document ID:	
Z-RIN:	
Date of Issuance:	March 25, 2020
Replaces:	N/A
Summary:	(1) FNS waives, for all States, the requirements to serve meals that meet the meal pattern requirements during the public health emergency due to COVID-19. (2) This waiver applies to State agencies administering and local organizations operating the: National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, and Summer Food Service Program. (3) This document relates to 7 CFR 210.10(b) and (c), 220.8(b) and (c), 225.16(d), and 226.20.
Disclaimer:	The contents of this guidance document have the force and effect of law as authorized by the Families First Coronavirus Response Act (the Act) (P.L. 116-127).

Pursuant to section 2202(a) of the Families First Coronavirus Response Act (the Act) (P.L. 116-127) and in light of the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is granting a nationwide waiver to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19). This waiver applies to the National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, and Summer Food Service Program (the Child Nutrition Programs).

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)."

Section 2202(a) of the Act 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 210.10(b) and (c), 220.8(b) and (c), 225.16(d), and 226.20, Child Nutrition Program meals must meet meal pattern requirements. However, FNS recognizes that, in this public health emergency, appropriate safety measures are necessary. Therefore, FNS waives, for all States, the requirements at 7 CFR 210.10(b) and (c), 220.8(b) and (c), 225.16(d), and 226.20, to serve meals that meet the meal pattern requirements during the public health emergency.

Consistent with section 2202(a)(2) of the Act, this waiver is automatically available to all States that elect to use it, without further application. State agencies must inform their Regional Office if they elect to be subject to the waiver. However, in order to participate under this waiver, local Program operators must contact the State agency for approval to utilize this waiver.

When reviewing requests from local Program operators, the State agency should consider requests that are targeted and justified based upon disruptions to the availability of food products resulting from unprecedented impacts of COVID-19. FNS expects and strongly encourages Program operators to maintain and meet the nutrition standards for each Program to the greatest extent possible. FNS stands ready to provide technical assistance and to offer alternatives to help stakeholders meet meal patterns. As a reminder, Federal procurement regulations at 2 CFR 200.320(f) allow procurement by noncompetitive proposals when there is a public emergency.

State agencies should inform local Program operators of the availability of this waiver as quickly as possible, and work in partnership with them to determine if this waiver is necessary to ensure access to nutritious meals. The State agency must approve use of this waiver on a case-by-case basis, and must report to the FNS Regional Office when and where this waiver is in effect and for what food components.

This waiver is effective immediately and remains in effect until April 30, 2020 or until expiration of the federally declared public health emergency, whichever is earlier. FNS is offering this flexibility in short term increments and will reevaluate the continued need for the waiver as the situation continues to evolve.

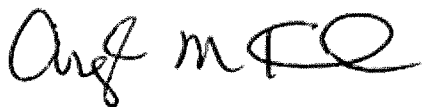
As required by section 2202(d), each State that elects to be subject to this waiver must submit a report to the Secretary not later than 1 year after the date such State received the waiver. The report must include:

- 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 stands ready to provide assistance to areas impacted by COVID-19, and intends to continue supporting access to nutritious meals during this public health emergency.

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,

A handwritten signature in black ink, appearing to read "Angela M. Kline". The signature is written in a cursive style with a large initial "A" and a long horizontal stroke at the end.

Angela M. Kline
Director
Policy and Program Development Division