



Food and
Nutrition
Service

DATE: September 22, 2021

Braddock
Metro Center

CODE: COVID-19: Child Nutrition Response #102

1320
Braddock
Place
Alexandria
VA 22314

SUBJECT: Nationwide Waiver of Meal Times Requirements 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

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Nationwide Waiver of Meal Times Requirements for Service Institutions Operating the Summer Food Service Program 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 operators in States that elect to be subject to this waiver may serve meals outside of the standard meal times 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 225.16(c)(1) and (2).

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.

Program regulations at 7 CFR 225.16(c)(1) and (2) require minimum elapsed times between meal services and maximum durations of individual meal services for the SFSP. However, FNS recognizes that meal time flexibility is necessary to ensure the provision of meals in a safe manner. This waiver will allow service institutions to implement appropriate safety measures during unanticipated school closures, and will support safe, efficient, and socially distant meal service models in school year 2021-2022.

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 7 CFR 225.16(c)(1) and (2) that place Federal limits on the amount of time that must elapse between the beginning of one SFSP meal and the beginning of the next, and the duration of an SFSP meal service. SFSP sponsors are still required to comply with application requirements at 7 CFR 225.6(c)(2)(i)(B) and (c)(3)(i)(A) to establish meal service times for each site. 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 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,¹ and work in partnership with them to provide meals to all participants in a safe and accessible manner.

Please note, State agencies that have opted into COVID-19 Child Nutrition Response #88: *Nationwide Waiver of Meal Times Requirements for School Year 2021-2022*, issued April 20, 2021 may allow school food authorities operating SSO to use meal times flexibilities. This new nationwide waiver is applicable to any service institution operating SFSP during unanticipated school closures as defined above.

¹ 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.² 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

² 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.