



Food and
Nutrition
Service

DATE: September 22, 2021

Braddock
Metro Center

CODE: COVID-19: Child Nutrition Response #104

1320
Braddock
Place
Alexandria
VA 22314

SUBJECT: Nationwide Waiver of Area Eligibility 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 Area Eligibility 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, service institutions operating the Summer Food Service Program (SFSP) in States, whose agencies elect to be subject to this waiver, may operate open sites in areas that are not located in “Areas in which poor economic conditions exist” during unanticipated school closures in school year 2021-2022. (2) This waiver applies to State agencies administering, and service institutions operating the SFSP. (3) This document relates to 42 U.S.C. 1761(a)(1)(A)(i) and 7 CFR 225.2, 225.6(c)(2)(i)(G), 225.6(c)(3)(i)(B), 225.6(d)(1)(i), 225.14(c)(3), and 225.16(b)(4).

Pursuant to the authority in Section 2202(a) of 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 for area eligibility to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19) during unanticipated school closures in school year (SY) 2021-2022. This waiver applies to service institutions operating the Summer Food Service Program (SFSP) during unanticipated school closures in SY 2021-2022.

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.

FNS recognizes that State agencies and service institutions need additional support and flexibility to safely serve meals to children in need during unanticipated school closures while managing the impacts of COVID-19. SFSP operators recognize the need to modify feeding models to ensure the safety of children and program staff. This waiver eases administrative burden and maintains safe access to meals during unanticipated school closures.

Therefore, pursuant to the FFCRA authority cited above, FNS grants the ability for service institutions to operate open sites during unanticipated school closures in areas that are not located in “*Areas in which poor economic conditions exist*,” as defined at section 13(a)(1)(A) of the National School Lunch Act (NSLA) and as referenced at 42 U.S.C. 1761(a)(1)(A)(i) and in regulation at 7 CFR 225.2, 7 CFR 225.6(c)(2)(i)(G), 7 CFR 225.6(c)(3)(i)(B), 7 CFR 225.6(d)(1)(i), 225.14(c)(3), and 7 CFR 225.16(b)(4). This waiver is effective 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. This waiver is available to all service institutions in States that opt to participate under this waiver and may be used at any site regardless of its location. 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 Program operators of these flexibilities as quickly as possible¹, 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) of the FFCRA, each State that elects the area eligibility flexibilities must submit a report to the Secretary not later than 1 year after the date such State elected to participate in the waiver². The report must include:

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.

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.

- 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