



Food and
Nutrition
Service

DATE: January 7, 2021

CODE: COVID-19: Child Nutrition Response #72

SUBJECT: Nationwide Waiver for Selected Child Nutrition Program Reporting Requirements

TO: Regional Directors
Special Nutrition Programs
All Regions

Braddock
Metro Center

1320
Braddock
Place
Alexandria
VA 22314

State Directors
Child Nutrition Programs
All States

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Nationwide Waiver for Selected Child Nutrition Program Reporting Requirements.
Document ID:	
Z-RIN:	
Date of Issuance:	January 7, 2021
Replaces:	N/A
Summary:	(1) This waiver cancels selected administrative data reporting requirements in the Child Nutrition Programs, specifically the following: Data Element 15, Part B of the FNS-10; FNS-640 Administrative Review Report Form; FNS-828 School Food Authority Paid Lunch Price Report; FNS-834 State Agency (NSLP/SNAP) Direct Certification Rate Data Element Report; FNS-874 Local Educational Agency Second Review of Applications; Ameliorative Action Plans for Verification Results; State Agency Food Safety Inspections Report; and Performance-Based Reimbursement (7 Cents) Quarterly Report. (2) This waiver applies to State agencies administrating and LEAs operating the National School Lunch Program and School Breakfast Program. (3) This document relates to: 7 CFR 210.5(d)(1), 7 CFR 210.8(c)(2), 42 U.S.C. 1769c (b)(1)(C)(iv); 7 CFR 210.18(n); 42 U.S.C. 1760 (p)(4); 7 CFR 210.14 (e)(7); 42 U.S.C. 1758 (b)(4)(F); 7 CFR 245.13(c); 7 CFR 245.13(e); 7 CFR 272.8(a)(5); 42 U.S.C. 1769c (b)(6)(E)(ii); 7 CFR 245.11(b)(2); 7 CFR 245.11(i); 7 CFR 245.12(i); 42 U.S.C. 1760(p)(4); 7 CFR 210.14 (e)(7); 7 CFR 210.15(a)(8); 42 U.S.C. 1758(h); 7 CFR 210.5(d)(2)(ii).
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 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 cancelling the collection of selected administrative data reporting requirements for State agencies administrating and local educational agencies (LEAs) operating the National School Lunch Program (NSLP) and School Breakfast Program (SBP), specifically two elements on the FNS-10 Report of School Program Operations – Part B, FNS-640 Administrative Review Report Form; FNS-828 School Food Authority Paid Lunch Price Report; FNS-834 State Agency (NSLP/SNAP) Direct Certification Rate Data Element Report; FNS-874 Local Educational Agency Second Review of Applications; Ameliorative Action Plans for Verification Results; State Agency Food Safety Inspections report; and Performance-Based Reimbursement (7 Cents) Quarterly Report. 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.

Waiving the reporting requirements described in this memorandum facilitates the safe provision of meals by allowing State and local program operators to further reallocate their limited staffing resources to meal service and relevant COVID-19 response activities, rather than expending those resources on the completion of administrative reporting. Eliminating this administrative burden frees program operators to enhance their focus on the efficient service of meals, thereby reducing contact and potential exposure to COVID-19.

Furthermore, the novel coronavirus (COVID–19) pandemic has introduced challenges and limitations that will prevent State agencies and LEAs from submitting accurate and complete reporting for periods covering: (1) extended school closures in School Year (SY) 2019-2020; and (2) modified Child Nutrition Program (CNP) operations and procedures that accommodate the implementation of alternate instructional models that allow for social distancing (which may include further school closures) during SY 2020-2021. As such, FNS is waiving selected reporting responsibilities based on these COVID-19-related impacts for the program years specified in the sections below. Waiving these reporting responsibilities aims to reduce burden on child nutrition program staff, allowing for greater dedication to safe and nutritious meal services. Additionally, this waiver supports access to nutritious meals and minimizes potential exposure to COVID-19 by ensuring that reporting requirements during the pandemic are fully consistent with other related flexibilities offered by FNS for COVID-19-related operations. These include previously issued nationwide waivers that allow for the continued service of free meals through the Summer Food Service Program (SFSP) and NSLP Seamless Summer Option (SSO), and those waiving on-site monitoring requirements in the Child Nutrition Programs.

FNS-10 Report of School Program Operations – Part B (October Annual Reporting)

Pursuant to 7 CFR 210.5(d)(1) and 7 CFR 210.8(c)(2), each State agency shall annually submit to FNS the total number of children approved for free lunches and the total number of children approved for reduced price lunches. Required totals are reported in Data Elements 15a and 15b on Part B of form FNS-10: *Report of School Program Operations*.

On October 9, 2020 FNS issued a nationwide waiver to allow SFSP/SSO operations during SY 2020-2021. FNS issued this waiver to provide State agencies and local Program operators flexibility to continue serving meals safely to children while managing the impacts of COVID-19. LEAs which elect to provide meal service SFSP/SSO operations would in many instances discontinue the collection of school lunch program applications, and subsequently cease the process of making further eligibility determinations.

LEAs that discontinued the collection of applications would be absent necessary information required to report complete and meaningful data associated with FNS-10 Data Element 15. Furthermore, the process of preparing Data Element 15 of the FNS-10 report would still result in burden on LEA food service staff, and require State and local program operators reallocate limited staffing resources away from the important efforts associated with meal service and relevant COVID-19 response activities.

Therefore, FNS waives, for all State agencies that elect to be subject to this waiver, the requirement at 7 CFR 210.5(d)(1) and 7 CFR 210.8(c)(2) that State agencies submit the total number of children approved for free lunches and the total number of children approved for reduced price lunches in Part B of Form FNS-10 for SY 2020-2021.

Of note, this waiver is not applicable to any other data elements of the FNS-10. Additionally, when completing on Data Elements 12, 13, and 14, States and LEAs should base their reporting the status of school meal operations (e.g. National School Lunch, School Breakfast Program) upon each school's designation(s) on the LEA's SY 2020-2021 State Agency- School Food Authority Agreement regardless of their other COVID-19 waiver elections.

Please note that in the absence of data element 15 on the FNS-10, Part B, FNS will rely upon the more granular data collected via the FNS-742 School Food Authority (SFA) Verification Collection Report for information associated with certification activities that occurred during SY 2020-2021.

FNS-640 Administrative Review Report Form

Pursuant to the National School Lunch Act (NSLA) Section 22(b)(1)(C)(iv) and regulations at 7 CFR 210.18(n), State agencies shall submit to FNS each year the FNS-

640 report containing the results of the reviews conducted in accordance with 7 CFR 210.18. State agencies must include the results of all administrative reviews conducted in the preceding school year.

The underlying administrative review activities accounted for by the FNS-640 report have been extensively impacted by COVID-19, limiting access to complete or available data due to extended school closures and suspension of on-site monitoring requirements during this time. Similar complications are presented by the waiver of on-site monitoring requirements during SY 2020-2021. Requiring preparation and submission of this report despite these limitations would require program administrators to devote extensive time and resources to its completion that would be better directed to COVID-19 response activities.

Therefore, FNS waives, for all State agencies that elect to be subject to this waiver, the requirement at Section 22(b) of the NSLA and 7 CFR 210.18(n) that State agencies submit the FNS-640 report to FNS for SY 2020-2021.

FNS-828 Paid Lunch Price Report

As required in section 12(p)(4) of the NSLA and regulations at 7 CFR 210.14(e)(7) and 7 CFR 210.15(a)(8), school food authorities must annually demonstrate the prices charged for paid meals and the procedures that allow school food authorities to average the pricing of paid lunches at schools throughout the jurisdiction of the school food authority. FNS recognizes that due to the implementation of modified CNP operations at the beginning of SY 2020-2021 under the flexibilities provided through other COVID-19 waivers, many LEAs will not be operating traditional pricing programs under the NSLP/SBP. This complicates a reliable determination of the average pricing of paid lunches established by school food authorities, and presents a further undue burden on local program staff working to respond to COVID-19.

Therefore, FNS waives, for all State agencies that elect to be subject to this waiver, the requirement at section 12(p)(4) of the NSLA, and regulations at 7 CFR 210.14(e)(7) and 7 CFR 210.15(a)(8) that school food authorities and States annually demonstrate the prices charged for paid meals and the procedures that allow school food authorities to average the pricing of paid lunches at schools throughout the jurisdiction of the school food authority for SY 2020-2021.

FNS-834 State Agency (NSLP/SNAP) Direct Certification Rate Data Element Report

Pursuant to 7 CFR 245.13(c), by December 1 of each year and in accordance with guidelines provided by FNS, State agencies administering NSLP are required to report to FNS the count of the number of children who are members of households receiving assistance under the Supplemental Nutrition Assistance Program (SNAP) who attend a

school operating one of the counting and claiming provisions described at 7 CFR 245.9 in a year other than the base year, where applicable (otherwise known as Data Element #3).

This activity requires access to and review of timely, accurate, and complete student records and consultation with LEA staff. FNS acknowledges that disruptions in LEA-level NSLP activities due to the election of COVID-19 waiver flexibilities allowing for modified CNP operations, and potential limited LEA staff resources due to public health restrictions, may restrict State agencies' ability to properly ensure the accuracy of this "Special Provision Match." LEA staff may not be available to respond to State agencies questions and/or themselves lack the access to accurate student records and enrollment, likely resulting in the submission of an inaccurate count of applicable children for SY 2020-2021.

Additionally, pursuant to 7 CFR 245.13(c), State agencies administering SNAP are required to report to FNS under FNS-834 Data Element #2 the unduplicated count of children ages 5 to 17 years old who are members of households receiving assistance under SNAP at any time during the period July 1 through September 30. With the aforementioned waiver of FNS-834 Data Element #3, FNS acknowledges there is no longer need for the SNAP State agency to submit FNS-834 Data Element #2.

Therefore, FNS waives, for all State agencies that elect to be subject to this waiver, the requirement at 7 CFR 245.13(c) to submit the FNS-834 for SY 2020-2021.

Further, pursuant to 42 U.S.C. 1758 (b)(6)(ii) and 7 CFR 245.13(a), each State that does not meet the direct certification performance benchmark for a particular school year is required to develop and implement a Continuous Improvement Plan (CIP) to improve its direct certification procedures and fully meet the bench marks set forth at 42 U.S.C. 1758 (b)(4)(F)(i). Given that the calculation of performance benchmarks required at 42 U.S.C. 1758 (b)(4)(F)(ii)(I) are dependent on data submitted via the FNS-834, FNS will not require any State to submit a CIP based on SY 2020-2021 direct certification performance. This flexibility only applies to the submission of a CIP based on SY 2020-2021 direct certification performance, and does not impact the requirement for States currently operating a CIP to continue their planned improvement activities.

Of note, although FNS is providing waiver relief for the submission of the FNS 834, LEAs are still required to adhere to the provisions of 7 CFR 245.6(b)(3), which require, at minimum, that all LEAs must conduct direct certification with SNAP at least three times per school year. To assist LEAs, State agencies are strongly encouraged to continue with all scheduled data exchanges and matching activities to ensure access to timely results. Maintenance of direct certification activities remains advantageous even in States/LEAs that are operating under the current nationwide waivers, as these data broadly support access to Federal nutrition assistance programs.

FNS-874 Second (Independent) Review of Applications

Pursuant to 42 U.S.C. 1769(c) (b)(6(E)(iii) and 7 CFR 245.11(b)(2), each State agency must submit a report, as specified by FNS, describing the results of the second reviews of eligibility determinations conducted by each LEA in their State. The report must provide information about applications reviewed in each LEA and include activities required under 7 CFR 245.11.

On October 9, 2020 FNS issued a nationwide waiver to allow Summer Food Service Program and NSLP Seamless Summer Option Operations during SY 2020-2021. FNS issued this waiver to provide State agencies and local Program operators flexibility to continue serving meals safely to children while managing the impacts of COVID–19. LEAs which elect to provide meal service through Summer Food Service Program or Seamless Summer Option Operations would in many instances discontinue the collection of school lunch program applications, and subsequently cease the process of making further eligibility determinations. In light of the COVID-19 impact on underlying application and certification/benefit issuance activities and the burden associated with mandated reporting on the Independent Review, FNS will cancel the collection of the FNS-874 in SY 2020-2021.

Please note that this waiver only applies to the reporting requirements associated with the independent review process and *does not* eliminate the underlying requirement for SFAs to conduct independent reviews.

Therefore, FNS waives, for all State agencies that elect to be subject to this waiver, the requirement at 42 U.S.C. 1769(c) (b)(6(E)(iii), and 7 CFR 245.11(b)(2) to submit the FNS-874 for SY 2020-2021.

Ameliorative Action Report

Pursuant to 7 CFR 245.12(i), each State agency must report to FNS any ameliorative actions the State agency has taken or intends to take in LEAs with high levels of applications changed due to verification no later than March 15. States report this information to FNS on the Ameliorative Action Report.

FNS recognizes that due to the implementation of modified CNP operations in SY 2020-2021 under the flexibilities provided through other COVID-19 waivers, underlying verification activities may be delayed or not occur at all, substantially limiting access to verification information as required under 7 CFR 245.12(i) that would typically serve as the basis for identifying LEAs in need of technical assistance and improvement actions necessary to complete the Ameliorative Action Report. Moreover, because any such verification activities conducted would likely not be representative of a typical school year, the ability for States to identify appropriate corrective actions or draw reliable and generalizable inferences on process improvement needs would be similarly limited.

Therefore, FNS waives, for all State agencies that elect to be subject to this waiver, the requirement at 7 CFR 245.12(i) requiring State agencies to submit to FNS the Ameliorative Action Report for SY 2020-2021.

State Agency Food Safety Inspections Report

As required in section 9(h) of the NSLA, 42 U.S.C. 1758(h)(1)(A) and amended by P.L. 116-94 Stat. 2635, at least twice a year, schools must obtain a food safety inspection conducted by a State or local agency responsible for such inspections. In addition, per requirements at 42 U.S.C. 1758(h)(3)(B), State agencies must annually provide a report on these inspection activities to FNS. However, extensive school building closures due to COVID-19 resulted in limited access to facilities during SY 2019-2020 (and under modified procedures continuing in SY 2020-2021), which may have prevented local agencies from conducting food safety inspections during the pandemic. While LEAs must still obtain food safety inspections to the maximum extent practicable and in line with existing statutory requirements, FNS recognizes that reporting on these activities is likely to be incomplete for SYs 2019-2020 and 2020-2021. Furthermore, maintaining these reporting requirements will result in burden on LEA food service staff, and require State and local program operators reallocate limited staffing resources away from the important efforts associated with meal service and relevant COVID-19 response activities.

Therefore, FNS waives, for all State agencies that elect to be subject to this waiver, the requirement included at 42 U.S.C. 1758(h)(3)(B) and amended by P.L. 116-94 Stat. 2635 that each State submit a report of the results of the food safety inspection by a State or local agency for SYs 2019-2020 and 2020-2021.

Performance-Based Reimbursement (7 Cents) Quarterly Report

Per regulatory requirements at 7 CFR 210.5(d)(2)(ii), States must submit a quarterly report to USDA detailing certification of SFA compliance with the provisions of Section 9(f) of the NSLA. This certification is a condition of receiving the additional performance-based reimbursement (7 cents) described in Section 6(b)(3) of the NSLA. FNS recognizes that due to the use of modified procedures by many program operators during SY 2020-2021 under the flexibilities provided through other COVID-19 waivers, many LEAs will not be operating NSLP/SBP, or similarly seeking certification of their meal pattern compliance status. In addition, more than 99 percent of SFAs have already been certified to receive the performance-based reimbursement (as of 2016), further limiting the applicability of this reporting requirement. In light of these considerations, FNS has determined that the time and resources program administrators would devote to this report's completion that would be better directed to COVID-19 response activities.

Therefore, FNS waives, for all State agencies that elect to be subject to this waiver, the regulatory requirement at 7 CFR 210.5(d)(2)(ii) that each State submit a quarterly report

detailing SFA compliance with the NSLP/SBP meal pattern requirements for School Year 2020-2021. State agencies adopting this flexibility are reminded that while the reporting requirements on certification activities are waived, the requirement to certify each SFA's full compliance with the NSLP/SBP meal patterns prior to their receipt of the additional performance-based reimbursement remains in effect. Furthermore, any LEA previously certified for the additional performance-based reimbursement will continue to receive those payments during this time, provided they elected to continue operating NSLP or SSO. All such eligible meals served must still be appropriately aggregated and reported on each State agency's monthly FNS-10 submission.

* * *

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 LEA operators of the cancellation of these reporting requirements as described to prevent any unnecessary application of time and resources.

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

- A summary of the use of this waiver(s) by the State agency and local program operators, and
- A description of whether this waiver(s) resulted in improved services to children.

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,



Sarah E. Smith-Holmes
Director
Program Monitoring and Operational Support Division