



Food and
Nutrition
Service

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DATE: April 20, 2021

CODE: COVID-19: Child Nutrition Response #92

SUBJECT: Nationwide Waiver to Allow Offer Versus Serve Flexibility for Senior High Schools 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 to Allow Offer Versus Serve Flexibility for Senior High Schools for School Year 2021-2022
Document ID:	
Z-RIN:	
Date of Issuance:	April 20, 2021
Replaces:	N/A
Summary:	(1) FNS waives, for all States, the requirement for senior high schools (as defined by the State education agency) to participate in offer versus serve during school year 2021-2022. (2) This waiver applies to State agencies administering, and local organizations operating, the National School Lunch Program. These flexibilities also apply to the National School Lunch Program Seamless Summer Option. (3) This document relates to 42 U.S.C. 1758(a)(3) and 7 CFR 210.10(e).
Disclaimer:	The contents of this waiver have the force and effect of law as authorized by the Families First Coronavirus Response Act (P.L. 116-127), as extended by the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159), unless otherwise provided.

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 the National School Lunch Program, and FNS is extending this flexibility to the National School Lunch Program Seamless Summer Option.

Section 2202(a) of the FFCRA permits the Secretary of Agriculture to establish a waiver for all States for the purposes of providing meals and meal supplements under the Child

Nutrition Programs with appropriate safety measures with respect to COVID-19, as determined by the Secretary.

Under the National School Lunch Act, 42 U.S.C. 1758(a)(3), and program regulations at 7 CFR 210.10(e), local operators of senior high schools (as defined by the State education agency) must participate in offer versus serve at lunch. However, FNS recognizes that for school year 2021-2022, waiving the offer versus serve requirement will support safe access to nutritious meals. It also facilitates implementation of Centers for Disease Control and Prevention (CDC) recommendations for safe school meal service, which include serving individually plated or pre-packaged meals. Schools that adhere to CDC recommendations for their meal service in the upcoming school year may not be able to meet offer versus serve requirements. FNS expects that this waiver will support schools reopening safely this school year.

Therefore, pursuant to the FFCRA authority cited above, FNS waives, for all States, the requirements at 42 U.S.C. 1758(a)(3) and 7 CFR 210.10(e) to serve school lunches to senior high school students using offer versus serve. This waiver is effective July 1, 2021, and remains in effect through June 30, 2022. FNS also extends the offer versus serve flexibility to the Seamless Summer Option for the duration of this waiver.

Consistent with Section 2202(a)(2) of FFCRA, this approval applies automatically to all States that elect to use it, without further application. If the State agency elects to implement these flexibilities, it must notify its respective FNS Regional Office, which will acknowledge receipt. State agencies should inform local operators of these flexibilities as quickly as possible,¹ and work in partnership with local operators to provide meals to all participants in a safe and accessible manner. State agencies must elect to be subject to the school year 2021-2022 offer versus serve flexibilities in order to use them.

As required by Section 2202(d) of FFCRA, each State that elects the offer versus serve flexibilities 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 the offer versus serve flexibilities by the State agency and local program operators, and
- A description of whether and how the offer versus serve flexibilities resulted in improved services to program participants.

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.

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.

A handwritten signature in dark ink, appearing to read "Ang M Kline". The signature is written in a cursive, flowing style.

Angela M. Kline
Director
Policy and Program Development Division