



Food and Nutrition Service

DATE: October 25, 2023

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Braddock Metro Center

SUBJECT: Clarification of Allowable Flexibilities for Child Nutrition Programs Experiencing Milk Supply Shortages

1320 Braddock Place Alexandria VA 22314

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

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| Issuing Agency/Office: | Food and Nutrition Service/Child Nutrition Programs |
| Title of Document: | Clarification of Allowable Flexibilities for Child Nutrition Programs Experiencing Milk Supply Shortages |
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| Summary: | (1) This guidance applies to State agencies and school food authorities administering the Child Nutrition Programs. (2) This guidance provides clarification on allowable flexibilities for States experiencing milk supply chain challenges. |

USDA's Food and Nutrition Service (FNS) is aware that schools in multiple States are experiencing milk supply chain challenges related to packaging issues. This memorandum provides State agencies with information about existing authority related to schools and other Child Nutrition Program (Program) operators experiencing inadequate milk supply. FNS encourages State agencies to use this authority when needed to support Program operators impacted by the current milk packaging challenges.

Under current Program regulations found at 7 CFR 210.10(d)(2), 220.8(d), 225.16(f)(6), and 226.20(e)(1), State agencies may allow Program operators experiencing milk supply shortages to serve meals during an emergency period with an alternate form of fluid milk or without fluid milk. Although Program operators are expected to meet the fluid milk requirements to the greatest extent possible, supply chain disruptions, including disruptions that limit milk variety or affect serving size, would be considered a temporary emergency condition for purposes of this flexibility. Because this is an existing regulatory flexibility, a waiver is not required for State agencies to exercise this authority. Additionally, State agencies are reminded that administrative

Regional Directors and State Directors

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reviews should take into account any waivers or flexibilities that have been provided to Program operators.

FNS appreciates the exceptional efforts of State agencies and Program operators working to meet the nutritional needs of children during this time. State agencies are reminded to distribute this memorandum to Program operators. State agencies with additional questions about this authority or reviews of Program operators using this regulatory flexibility should contact the appropriate FNS Regional Office.

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