DATE: August 20, 2020

CODE: COVID–19: Child Nutrition Response #45

SUBJECT: Nationwide Waiver to Allow Meal Pattern Flexibility in the
Summer Food Service Program - EXTENSION 6[1]

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 Meal Pattern Flexibility in the Summer Food Service Program – EXTENSION 6
Document ID:	
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Date of Issuance:	August 20, 2020
Replaces:	N/A
Summary:	(1) FNS waives, for all States, the requirements to serve meals that meet the meal pattern requirements during the public health emergency due to COVID–19. This waiver extends the Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION 5, granted on July 30, 2020, that expires on August 31, 2020 for the **Summer Food Service Program**. (2) This waiver applies to State agencies administering, and local organizations operating, the Summer Food Service Program (3) This document relates to 7 CFR 225.16(d).
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 section 2202(a) of the Families First Coronavirus Response Act (the FFCRA)
(P.L. 116-127) and in light of the exceptional circumstances of this public health
emergency, the Food and Nutrition Service (FNS) is extending a nationwide waiver to
support access to nutritious meals while minimizing potential exposure to the novel
coronavirus (COVID–19). This waiver extends the Summer Food Service Program
(SFSP) *Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition*

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[1] Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and
Regulatory Affairs designated this waiver as *not major*, as defined by 5 U.S.C. § 804(2).

Programs – EXTENSION 5—granted on July 30, 2020, that expires on August 31, 2020—through September 30, 2020, or for the duration of summer operations, whichever is earlier. The *Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs – EXTENSION 4,* granted on June 25, 2020, provided extensions to all other Child Nutrition Programs through school year 2020-2021.

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.

Under Program regulations at 7 CFR 225.16(d), Summer Food Service Program meals must meet meal pattern requirements. However, FNS recognizes that, in this public health emergency, appropriate safety measures are necessary. Therefore, for all States, FNS extends its waiver of the requirements at 7 CFR 225.16(d) to serve meals that meet the meal pattern requirements. This waiver extension remains in effect until September 30, 2020, or for the duration of summer operations, whichever is earlier. Please note that the National School Lunch Program (NSLP) Seamless Summer Option (SSO) follows the NSLP and School Breakfast Program meal patterns. Therefore, EXTENSION 4 applies to SSO operations for the duration of summer 2020. As a reminder, SFSP and SSO may no longer be operated once schools are open for student instruction, which includes both in-person and virtual learning. Planned full or partial building closures are not considered unanticipated school closures for SY 2020-2021.

Consistent with section 2202(a)(2) of the FFCRA, this waiver is automatically available 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. However, in order to participate under this waiver, local Program operators must contact the State agency for approval to utilize this waiver. Elections and approvals under the initial waiver will continue under this extension; no further action is needed.

When reviewing requests from local Program operators, the State agency should consider requests that are targeted and justified based on plans to support access to nutritious meals while minimizing potential exposure to COVID–19. FNS expects and strongly encourages Program operators to maintain and meet the nutrition standards for each Program to the greatest extent possible. FNS stands ready to provide technical assistance and to offer alternatives to help Program operators meet the meal patterns. As a reminder, Federal procurement regulations at 2 CFR 200.320(f) allow procurement by noncompetitive proposals when there is a public emergency.

State agencies should inform local Program operators of the extension of this waiver as quickly as possible, and work in partnership with them to determine if this waiver is necessary to ensure access to nutritious meals. The State agency must approve use of this waiver on a case-by-case basis, and must report to the FNS Regional Office when and where this waiver is in effect and for what food components.

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 received the waiver. 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 stands ready to provide assistance to areas impacted by COVID–19, and intends to continue supporting access to nutritious meals

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,

Angela M. Kline
Director
Policy and Program Development Division