



Food and  
Nutrition  
Service

Braddock  
Metro Center

1320  
Braddock  
Place  
Alexandria  
VA 22314

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**SUBJECT:** Previously Issued Questions and Answers Relating to Operation of the Child Nutrition Programs: Updated for School Year 2021-2022

**TO:** Regional Directors  
Special Nutrition Programs  
All Regions

State Directors  
Child Nutrition Programs  
All States

<b>Issuing Agency/Office:</b>	FNS/Child Nutrition Programs
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<b>Summary:</b>	(1) This memorandum provides clarification on questions related to Child Nutrition Program operations during School Year 2021-2022. (2) This memorandum provides updates to Q&As previously released in Calendar Year 2020 and applies to State agencies administering, and local organizations operating, the National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, and the National School Lunch Program Seamless Summer Option. (3) This document relates to 7 CFR Parts 210, 220, and 226.

This memorandum includes questions and answers intended to provide clarification to State agencies and Program operators as they operate the Child Nutrition Programs, including the National School Lunch Program (NSLP), School Breakfast Program (SBP), NSLP Seamless Summer Option (SSO), and Child and Adult Care Food Program (CACFP), during school year (SY) 2021-2022. These questions and answers were previously issued in calendar year 2020 and have been updated for application to SY 2021-2022. The following Q&A documents are the sources for the attached consolidated Q&As:

- **SP 08-2020, SFSP 04-2020, March 6, 2020** - Child Nutrition Program Meal Service during Novel Coronavirus Outbreaks;
- **SP 13-2020, CACFP 07-2020, SFSP 06-2020, April 11, 2020** – Child Nutrition Program Nationwide Waivers: Questions and Answers
- **SP 14-2020, CACFP 08-2020, SFSP 07-2020, April 11, 2020** - Child Nutrition Program Meal Service during Novel Coronavirus Outbreaks: Questions and Answers #3
- **SP 15-2020, CACFP 09-2020, SFSP 08-2020, April 21, 2020** - Child Nutrition Program Meal Service during Novel Coronavirus Outbreaks: Questions and Answers #4
- **SP 18-2020, SFSP 10-2020, May 19, 2020** - Summer Food Service Program and National School Lunch Program Seamless Summer Option Nationwide Waivers - Questions and Answers
- **SP 24-2020, CACFP 13-2020, SFSP 13-2020, August 21, 2020** - Questions and Answers for the Child Nutrition Programs during School Year 2020-2021 –#5
- **SP 25-2020, CACFP 14-2020, SFSP 14-2020, September 11, 2020** - Questions and Answers Relating to the Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through December 2020
- **SP 01-2021, CACFP 01-2021, SFSP 01-2021, October 14, 2020** - Questions and Answers Relating to the Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021 – EXTENSION – Q&As #2
- **SP 04-2021, CACFP 03-2021, SFSP 03-2021, November 2, 2020** - Questions and Answers Relating to the Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations during School Year 2020-2021 – Q&As #3
- **SP 05-2021, CACFP 04-2021, SFSP 04-2021, January 5, 2021** - Questions and Answers Relating to the Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations during School Year 2020-2021 – Q&As #4
- **COVID-19 Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) Meal Delivery Using Existing Authority**

Pursuant to the Families First Coronavirus Response Act of 2020 (P.L. 116-127), as amended 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) has issued several nationwide waivers and has exercised existing statutory and regulatory authorities to support access to nutritious meals while minimizing potential exposure to the novel coronavirus. Child Nutrition Program waivers applicable to SY 2021-2022 may be found at <https://www.fns.usda.gov/disaster/pandemic/cn-2021-22-waivers-and-flexibilities>.

**Please note, many of these questions relate to Child Nutrition Response #87, *Nationwide Waiver to Allow Non-Congregate Meal Service for School Year 2021-2022*, Child Nutrition Response #88, *Nationwide Waiver of Meal Times Requirements for School Year 2021-2022*, and Child Nutrition Response #89, *Nationwide Waiver to Allow Parents and Guardians to Pick Up Meals for Children for School Year 2021-2022*. While these waivers are available through June 30, 2022, FNS expects that they will be used only for the duration and extent needed, as schools and child care providers work to safely and successfully reopen. For more information, please see Question #4 of *SP 15-2021, CACFP 13-2021, SFSP 08-2021: Questions and Answers for Child Nutrition Program Operations in School Year 2021-2022*, <https://www.fns.usda.gov/cn/qa-child-nutrition-program-operations-sy-2021-2022>.**

FNS appreciates the exceptional effort of State agencies and local Program operators working to meet the nutritional needs of child and adult participants during a challenging time. State agencies are reminded to distribute this memorandum to Program operators immediately. Program operators should direct any questions concerning this guidance to their State agency. State agencies with questions should contact the appropriate FNS Regional Office.

**Original Signed**

Angela M. Kline  
Director  
Policy and Program Development Division

ATTACHMENT

# QUESTIONS AND ANSWERS

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### I. GENERAL

#### 1. **What is the maximum number of Program meals and snacks that can be claimed for Federal reimbursement each day during school year (SY) 2021-2022?**

The maximum number of meals or snacks that can be claimed for Federal reimbursement, per child or adult participant, per day, varies by Program:

- SBP: Up to one breakfast per child per day;
- NSLP: Up to one lunch per child per day;
- NSLP Afterschool Snack Service: Up to one snack per child per day;
- NSLP Seamless Summer Option: Up to two meals, or one meal and one snack, per child, per day, in any combination except lunch and supper;
- CACFP Child and Adult Care: Up to two meals and one snack, or two snacks and one meal, per child or adult participant per day;
- CACFP At-Risk Afterschool Meals Component: Up to one meal and one snack, per child per day; or
- CACFP Emergency Shelters: Up to three meals, per resident 18 years and younger, per day.<sup>1</sup>

Some Program operators participate in multiple Programs. For example, under typical circumstances, in one day, a Program operator may serve a child breakfast through SBP, lunch through NSLP, and supper and snack through CACFP At-Risk. Under the waivers, a child may still participate in more than one program, but in no circumstances shall a child receive more than the number of meals allowed in each Program for which they are eligible. Operators must also ensure children do not receive duplicates of the same meal.

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<sup>1</sup> Section 1107 of the American Rescue Plan of 2021 authorizes reimbursement for meals and snacks that emergency shelters serve to individuals under the age of 25, from the date of enactment until the date the COVID-19 public health emergency is lifted. See: [Reimbursement for Meals and Snacks Served to Young Adults in the CACFP - Q&As](#).

**2. Can Child Nutrition Program (CNP) operators that have received a loan through the Paycheck Protection Program (PPP), made available through the Small Business Administration and qualified lending partners, use CNP Program funds received from the State (CNP Federal funds) to pay back a PPP loan?**

Congress authorized the Paycheck Protection Program (PPP) through the CARES Act and Consolidated Appropriations Act, 2021 to help businesses facing extenuating circumstances due to the COVID-19 pandemic to cover their payroll expenses. Some sponsors have used PPP funds to pay for CNP labor expenses. Under certain circumstances, a PPP loan may be forgiven.

- **If the PPP loan is forgiven:** Any CNP expenses paid for using those forgiven PPP funds may not be claimed using CNP funds since they have *already* been paid with another source of Federal funding.
- **If the PPP loan is not forgiven:** CNP funds may only be used to repay that portion of the loan which was used to cover allowable CNP expenses. This is consistent with existing guidance outlined in FNS Instruction 796-2 Rev. 4 (refer to heading titled *Costs Funded from Other Sources and Under Recovery of Costs*). Program operators using CNP funds to repay any portion of a PPP loan must fully document such repayments and be able to demonstrate that funds were properly allocated and that such repayments were limited to the portion of the loan that was used to cover allowable expenses under the CNP. In most circumstances, FNS anticipates that the same payroll cost allocation used by the program operator under normal procedures will continue to apply when considering PPP repayments, though exceptions may occur.

However, please note that interest due in connection with a PPP or other loan repayment is *not* an allowable cost and may not be paid using Federal CNP funds, per requirements at 2 CFR 200.449(a). Program operators are further reminded that CNP funds may only be used to pay for allowable CNP expenses. For any portion of a PPP loan that was used to pay for non-Program expenses, CNP funds may not be used for repayment.

## **II. SCHOOL MEAL PROGRAMS**

**3. Can SFAs operate closed enrolled sites and limit enrollment to their own students?**

Yes, while FNS encourages SFAs to serve the community during normal summer operations, FNS recognizes that due to the unique operational challenges caused by the COVID-19 pandemic, SFAs operating SSO during the regular school year may decide to operate closed enrolled sites that limit participation to only students enrolled at the school site. Regulations at 7 CFR 225.14(d)(2) specify that summer school sites must be open to enrolled children and children residing in the area served by the site.

However, this requirement is specific to summer school sessions, and does not apply to schools operating SSO during the regular school year during COVID-19.

**4. May schools operating SSO during the school year sell a la carte food items and beverages?**

Yes, schools operating SSO during the school year under COVID-19: Child Nutrition Response #85, *Nationwide Waiver to Allow the Seamless Summer Option through School Year 2020-2021*, <https://www.fns.usda.gov/cn/child-nutrition-response-85>, may sell a la carte foods and beverages as long as they continue to meet the competitive foods (Smart Snacks) requirements. Foods and beverages sold in competition with reimbursable meals on the school campus during the school day must meet the competitive food standards described at 7 CFR 210.11, regardless of whether the school is operating NSLP/SBP or SSO (7 CFR 210.11(b)(3)). For the purpose of the competitive food standards:

- The school campus means all areas of the property under the jurisdiction of the school that are accessible to students during the school day (7 CFR 210.11(a)(4)).
- The school day means the period from the midnight before, to 30 minutes after the end of the official school day (7 CFR 210.11(a)(5)).

Schools that are operating grab and go sites in areas outside of the school campus or providing meals before or after the official school day, are not required to meet the competitive food standards. SFAs must meet nonprofit food service account requirements outlined in 7 CFR 210.14 for those operating SSO. Additionally, State agencies and/or local educational agencies may impose additional restrictions on competitive foods, provided that they are not inconsistent with Federal requirements (7 CFR 210.11(b)(1)).

**5. Can residential child care institutions (RCCIs) operate SSO under the Nationwide Waiver to Allow the Seamless Summer Option through School Year 2021-2022?**

Yes. In order to safely serve nutritious meals during COVID-19, SFAs that use the *Nationwide Waiver to Allow the Seamless Summer Option through School Year 2020-2021*, <https://www.fns.usda.gov/cn/child-nutrition-response-85> are permitted to operate the SSO at RCCIs.

**6. OVS is designed for congregate meal situations. How should OVS be adapted for non-congregate SSO settings?**

When using OVS in a non-congregate setting, SFAs should consider the unique service situations of each site, as well as each site's ability to follow appropriate safety measures. All required meal components or food items must be offered, and all

participants must have the opportunity to select a reimbursable meal. FNS encourages SFAs that wish to use OVS to think creatively about how to implement this flexibility while ensuring that all meal service parameters are met.

**7. May a State approve an SFA to operate SSO at some schools and operate NSLP/SBP at other schools?**

Yes. There is no Federal requirement that SFAs must operate only one Program in all schools within the SFA. State agencies may approve SFAs to operate different CNPs based on the needs of each school.<sup>2</sup> FNS strongly encourages State agencies and SFAs to provide the flexibility needed to meet varying school circumstances. State agencies may choose not to approve SFAs to operate different CNPs at their individual schools if operational impediments exist that would prevent them from effectively managing such arrangements.

**8. If schools schedule a shortened school week, e.g., have classes on Monday-Thursday and have Fridays off to clean the building, may they provide meals for the students to take home for Friday through NSLP/SBP?**

Schools may not provide meals on off days under the NSLP/SBP if they operate under a shortened week, for example where one day of the week is not a “day of operation” that includes school instruction (7 CFR 210.7(c)). However, if students are given work to do at home on the off days and the school considers it an instructional day, meals may be offered if the State has elected to use flexibilities provided under the Nationwide Waiver to Allow Non-congregate Meal Service for SY 2021-2022, the Nationwide Waiver of Meal Time Requirements for SY 2021-2022, and the Nationwide Waiver to Allow Parents and Guardians to Pick Up Meals for Children for SY 2021-2022. As a reminder, meals may be offered through the CACFP at-risk afterschool meals program during the school year on days when schools are not in session.

**9. May students pick up meals at any school within a school food authority, or are they required to pick up meals only at the school they attend?**

SFAs that implement the Nationwide Waiver to Allow Non-Congregate Meal Service for SY 2021-2022, [www.fns.usda.gov/cn/child-nutrition-response-87](http://www.fns.usda.gov/cn/child-nutrition-response-87), may permit students to pick up meals at any school within the SFA. SFAs that have elected to implement the Nationwide Parent Pick-up Waiver, [www.fns.usda.gov/cn/child-nutrition-response-89](http://www.fns.usda.gov/cn/child-nutrition-response-89), may permit parents and guardians to pick up meals for their children at any school within the SFA. SFAs may provide meals to students enrolled in schools outside the SFA only if they have an agreement with the student’s SFA to share eligibility information.

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<sup>2</sup> The burden associated with State agency approval of Program operations is included in 7 CFR Part 210 National School Lunch Program, OMB Control #0584-0006, expiration date 07/31/2023.

**10. Are schools required to provide potable water to students eating lunch at school when lunch is served in the classroom?**

Yes. Schools are generally required to make potable water available to students during meal service times where meals are served, including in the classroom (7 CFR 210.10(a)(1)(i)). Although lunch is not typically served in the classroom, due to COVID-19, many schools are considering serving lunch in the classroom to accommodate social distancing. During the COVID-19 pandemic, when lunch is served in the classroom, the potable water requirement does apply.

**11. Are schools required to provide potable water to students eating breakfast at school when breakfast is served in the classroom?**

No. Consistent with SBP regulations for potable water (7 CFR 220.8(a)(1)) while water must be made available when breakfast is served in the cafeteria, schools are not required to make water available when breakfast is served outside of the cafeteria. Schools are encouraged to make potable water available in all meal service locations as safety permits.

**12. Are schools required to provide potable water to students who are learning virtually due to COVID-19 and who are not eating lunch at school?**

No. The requirement that schools make potable water available to students where lunch is served during the meal service assumes that lunch will be consumed onsite. During the COVID-19 pandemic, when lunch is consumed outside of the school (i.e., provided via meal delivery, picked up by parents or guardians, etc.), students would not be able to consume the potable water at the onsite location even if it were offered. Accordingly, the potable water requirement does not apply. As noted above, the requirement to provide potable water with school breakfast only applies when breakfast is served in the cafeteria (7 CFR 220.8(a)(1)).

**13. Can schools operating under the Nationwide Waiver to Allow Non-Congregate Meal Service in SY 2021-2022 through SSO deliver meals directly to students' homes?**

Yes. If an SFA determines there is a need and it is logistically feasible to deliver meals directly to homes, it may do so with State agency approval,<sup>3</sup> adherence to all Federal confidentiality requirements, and with all necessary Federal waiver approvals (including an approval for non-congregate feeding). Delivery could be completed by mail or delivery service, or hand-delivered by school staff, volunteers, community organizations, or others.

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<sup>3</sup> The burden associated with the requirement for SFA to maintain an agreement with the State agency for Program operations is included in 7 CFR Part 210 National School Lunch Program, OMB Control #0584-0006, expiration date 07/31/2023.



#### **14. What are the requirements for initiating home meal delivery for a household?**

Schools must first obtain written consent from households of eligible children (this could include email or other electronic means) that the household wants to receive delivered meals. In addition, schools should confirm the household's current contact information and the number of eligible children in the household to ensure the correct number of meals are delivered to the correct location. Schools must follow appropriate reporting and recordkeeping requirements and account for all meals served, as required under 7 CFR 210.15.

The National School Lunch Act (NSLA) places restrictions on the disclosure of information obtained from the eligibility process for free and reduced price meals. Schools must obtain written consent from the child's parent or guardian before releasing the household's contact information. The school must be the entity that makes the first contact about meal delivery with the household of eligible children and must notify the household if contact information will be shared with an external organization, for example, a local non-profit that will provide meal delivery. Once the school receives written consent from the parent or guardian to release contact information, the schools may share the information with other organizations involved with meal delivery.

Schools must ensure data is handled appropriately at all times and by all organizations involved with meal delivery to safeguard household confidentiality. If the school is using a private vendor, NSLP regulations require the school to have a memorandum of understanding (MOU) with the vendor specifying the confidentiality requirements. The MOU should include information such as what will be disclosed, how the information will be used, how the information will be protected from unauthorized use and disclosures, and penalties for unauthorized disclosure. For further disclosure requirements and information, see 7 CFR 245.6(i) and (j)((1&2) and [section 5 of the Eligibility Manual for School Meals](#).

#### **15. Do home-delivered meals need to be shelf-stable?**

No. The type of meal offered will depend on the resources and capacity of the site. Those that are able to prepare ready-to-eat meals and have the capacity to deliver meals daily in a way that meets State or local food safety requirements may do so. Home-delivered meals still have to meet all meal pattern requirements unless the school has been approved to operate under the applicable nationwide meal pattern waiver.

#### **16. Does the child need to be present for home meal delivery?**

No. As long as the school has obtained the household's written consent to deliver meals, has verified the current address, and the meals are shelf-stable, no one needs to

be present for home meal delivery. LEAs should consider State and local food safety requirements and best practices.

**17. If a household has children in multiple schools, can the schools coordinate to provide one home delivery for all children in the household?**

Yes. To the extent feasible, SFAs or schools are encouraged to coordinate their home deliveries to make the best use of their resources.

**18. What funding is available for meal delivery?**

There is no additional reimbursement for home delivery or mobile meals delivery, but related expenses, such as postage or delivery service fees, would be considered an allowable cost. Delivery costs could also be paid with non-program funds such as State or local funds, or private donations.

**19. What is the process for State agency reporting of the required information for each waiver that is due to the Secretary not later than 1 year after the date the State received the waiver?**

FNS is using the annual School Meals Operations Study to collect the required information from the Families First Coronavirus Response Act waiver activity.<sup>4</sup> The study, which collected the required reporting on the first set of nationwide waivers in spring 2021, will collect data on the remaining SY 2020-2021 nationwide waivers in fall 2021, and data on the new SY 2021-2022 nationwide waivers in spring and summer 2022. The study will be a census of all Child Nutrition State agencies and will include a survey component as well as a review of disaggregated data (at the site or sponsor level) from the FNS-10, FNS-418, and FNS-44. Mathematica is conducting the study. Therefore, State agencies will not be required to individually report to FNS on each of the nationwide waivers elected by the State; participation in the study will satisfy reporting requirements.

**20. Can the NSLP afterschool snack service operate simultaneously with SSO?**

Yes. The NSLP afterschool snack service, which operates during the regular school year, may operate simultaneously with the SSO under the Nationwide Waiver to Allow the Seamless Summer Option through School Year 2021-2022. However, children may not receive more than the numbers of reimbursable meals allowed in each Program for which they are eligible. For example, breakfast, lunch, and snack cannot all three be reimbursed under SSO. FNS recognizes that for the duration of operations under the waiver, schools may be serving breakfasts and lunches through SSO.

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<sup>4</sup> FNS will submit to OMB for approval a revision to OMB Control #0584-0607 to cover the reporting requirements of the Nationwide Waivers under the Paperwork Reduction Act.

Similar to the At-Risk Afterschool Meals component of the CACFP, schools that are offering non-congregate meals may meet the requirement to offer an enrichment activity with the NSLP snack service virtually or in other non-congregate ways.

**21. May schools that were planning to conduct a Provision 2 base year during SY 2021-2022 and then elected to operate SSO calculate their NSLP/SBP claiming percentages and still use SY 2021-2022 as their Provision 2 Base Year?**

No. Schools that operate SSO for all or a portion of SY 2021-2022 will not have complete base year counting and claiming data needed to establish monthly or annual percentages of meal counts by type. Therefore, generally, schools will be unable to conduct Provision 2 base years during SY 2021-2022. However, where schools were participating in the fourth year of a Provision 2 cycle during SY 2020-2021 and were ineligible for an extension, State agencies should consult with their FNS Regional Office for more guidance on conducting a streamlined Provision 2 base year. Additionally, schools that operated NSLP/SBP for the full 2021-2022 school year may conduct a Provision 2 base year. For more information on Provision 2 cycle extensions and streamlined base years, please see Chapter 3 of FNS' Provision 2 Guidance Manual at: <https://www.fns.usda.gov/provision-2-guidance-national-school-lunch-and-school-breakfast-programs>.

**22. If an LEA is not currently providing meals through the National School Lunch Program is it still required to continue direct certification activities?**

Yes. Regardless of operational status, all NSLP-participating LEAs are expected to meet the provisions of 7 CFR 245.6(b)(3), which requires that at minimum all LEAs must conduct direct certification with SNAP at least three times per school year.<sup>5</sup> To assist LEAs, State agencies are strongly encouraged to continue with all scheduled data exchanges and matching activities to ensure access to timely results. In most States, direct certification is a highly automated process in which the exchange of participant data and record matching occurs on a frequently scheduled basis and with little or no human interaction.

In these States with available “centralized” student data there is very little effort needed by LEA staff to input State match results into local-level systems and convey free status via direct certification. In other States without readily available “centralized” student data or for many non-public LEAs, LEAs initiate a match process by uploading student rosters into a State user-interface and are returned results. In either situation it would be expected that these activities have been occurring with little or no disruptions.

With this said, many States do provide LEAs with lists of partial matches for review and it is understood that extended closures may delay the ability for LEAs to

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<sup>5</sup> The burden associated with direct certification activities is included in 7 CFR Part 210 National School Lunch Program, OMB Control #0584-0006, expiration date 07/31/2023.

adjudicate these records. FNS encourages State agencies to assist LEAs when possible to provide flexibility in any requirements associated with partial matches.

**23. To the extent that the waivers granted by USDA affect programs in the Elementary and Secondary Education Act of 1965 (ESEA) administered by the U.S. Department of Education (ED), such as the Title I, Part A (Title I) program, are USDA and ED working together to provide information to stakeholders?**

Yes. Similar to prior instances when there have been changes to the school meals program (e.g., the implementation of the Community Eligibility Provision) that also affect ESEA programs such as Title I, USDA and ED are coordinating on the best ways to provide timely information to stakeholders. ED has developed a Fact Sheet to support school districts in determining alternate methods of allocating Title I funds when school meal data is unavailable. The Fact Sheet can be found on the USDA website at: [Department of Education Guidance on Implementation of Child Nutrition Program Waivers | USDA-FNS](#). USDA encourages stakeholders with questions about the waivers and ESEA programs to contact ED at: [OESE.titlei-a@ed.gov](mailto:OESE.titlei-a@ed.gov).

**III. CHILD AND ADULT CARE FOOD PROGRAM (CACFP)<sup>6</sup>**

**24. Can the at-risk afterschool meals component of the CACFP operate simultaneously with SSO?**

Yes. CACFP At-Risk, which operates during the regular school year, may operate simultaneously with the SSO during implementation of Child Nutrition Response #85, *Nationwide Waiver to Allow the Seamless Summer Option through School Year 2021-2022*, <https://www.fns.usda.gov/cn/child-nutrition-response-85>. However, under no circumstance may children receive more than the number of reimbursable meals allowed in each Program for which they are eligible. Please refer to see Question #1 for the number of meals per program that may be served. Please note that CACFP At-Risk cannot operate when school is not in session.

**25. What does the meal times waiver allow specific to suspension of CACFP meal service times during the public health emergency?**

Child Nutrition Response #88, *Nationwide Waiver of Meal Times Requirements for School Year 2021-2022*, <https://www.fns.usda.gov/cn/child-nutrition-response-88>, allows State agencies to suspend the meal service times established by the Program operator. The waiver is intended to provide maximum flexibility to help State

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<sup>6</sup> Except for the burden associated with reimbursement claims, which is included in Food Programs Reporting System (FPRS), OMB Control #0584-0594, expiration date 07/31/2023, all burden associated with the reporting, recordkeeping, and public disclosure requirements outlined in the CACFP section of this memorandum will be included in an upcoming reinstatement request to 7 CFR part 226, Child and Adult Care Food Program (CACFP), OMB control number 0584-0055, expiration date February 29, 2020.

agencies support the unique needs of local Program operators during the public health emergency. While these waivers are available through June 30, 2022, FNS expects schools and child care providers to use the flexibilities for only the duration and extent that they are needed.

**26. Which components under CACFP does the non-congregate waiver apply to?**

Child Nutrition Response #87, *Nationwide Waiver to Allow Non-congregate Meal Service for School Year 2021-2022*, <https://www.fns.usda.gov/cn/child-nutrition-response-87>, applies to all CACFP components—child care centers, adult day care centers, outside-school-hours care centers, at-risk afterschool care programs, family day care homes, and emergency shelters.

**27. Can CACFP sites that are open implement the non-congregate and meal time nationwide waivers?**

Yes, however, FNS expects CACFP sites to use the non-congregate and meal time waivers only for the duration and extent they are needed. These waivers are intended to provide temporary flexibility to child care providers as they work to offer nutritious meals while safely and successfully reopening. The nationwide waivers to allow meal service time flexibilities and non-congregate feeding in the Child Nutrition Programs during the coronavirus pandemic do not require that a CACFP site be closed. Under these waivers, day care homes and centers that are open can provide meal service on site to participants in attendance. They can also arrange meal service pick-ups and/or provide meal delivery for participants temporarily not in attendance. If the CACFP operator determines there is a need and it is logistically feasible to implement these options, it can do so for all or part of its participants.

**28. Can a child care center that operates CACFP and is closed due to COVID-19 provide non-congregate meals to enrolled children?**

While FNS does not expect this to be a common issue as we move toward reopening, FNS recognizes that program operators need flexibility to continue safely serving meals to children under a variety of local circumstances. Child Nutrition Response #87, *Nationwide Waiver to Allow Non-Congregate Meal Service for School Year 2021-2022*, <https://www.fns.usda.gov/cn/child-nutrition-response-87>, provides CACFP institutions and facilities the ability to provide meals through a variety of methods, including pick-up schedules with designated times for distribution, as long as these are approved by the State agency prior to implementation. The maximum number of meals that may be offered to each child remains the same as under regular CACFP operations. The State agency may approve a distribution or pick up approach that includes meals for multiple days, up to one week at a time.

When approving these requests, the State agency should consider the expected duration of the closure, and the Program operator's capacity to execute such an

approach effectively, including its ability to meet State or local food safety requirements.

**29. Are child care centers required to serve non-congregate meals to enrolled children who are not physically in care on some, or all, days of the week the center is operating? For example, some children may be receiving virtual instruction due to an increased risk of severe illness and/or special healthcare needs, while others are being cared for onsite.**

Child care centers participating in CACFP are subject to the congregate feeding requirement that restricts meal service to receiving care onsite. However, a State may elect to use the waivers allowing non-congregate and parent-pick up, and these waivers can help program operators to continue safely serving meals to children as they work toward reopening. FNS expects these waivers to be used only for the duration and extent they are needed. If a center chooses to use these waivers to provide non-congregate meals to any of the children enrolled in care, then meals must be offered to every enrolled child, whether they attend virtually or in-person. The center has the discretion to choose how non-congregate meals will be offered, e.g., grab and go or meal delivery. Parents and guardians have the option to choose not to receive CACFP meals for their children. This also applies to day care homes.

**30. Under the non-congregate waiver, can CACFP operators deliver meals directly to children or adult participants' homes?**

Yes. If the CACFP operator determines there is a need and it is logistically feasible to deliver meals directly to homes, it may do so with State agency approval and adherence to all Federal confidentiality requirements. If applicable, any State agency meal service times would also have to be waived, per Child Nutrition Response #88, *Nationwide Waiver of Meal Time Requirements for School Year 2021-2022*, <https://www.fns.usda.gov/cn/child-nutrition-response-88>. Delivery could be completed by mail or delivery service, or hand-delivered by CACFP staff, volunteers, community organizations, or others. The State agency should consider the capacity of the CACFP operator to execute such an approach effectively, including meeting State or local food safety requirements. This option is available to CACFP operators that can adhere to confidentiality and logistical requirements. Only meals delivered to enrolled children or adult day care participants or children in CACFP at-risk programming will be reimbursable.

**31. What are the requirements for initiating CACFP home meal delivery for a household?**

CACFP operators must first obtain written consent from households of enrolled children (this could include email or other electronic means) that the household wants to receive delivered meals. In addition, CACFP operators should confirm the

household's current contact information to ensure meals are delivered to the correct location.

It is critical that CACFP operators protect the confidentiality of children and their households throughout this process. The National School Lunch Act and the Family Educational Rights and Privacy Act (FERPA) do not authorize release of household contact information for children without first obtaining the written consent of the child's parent or guardian. The CACFP operator must make the first contact about meal delivery with the households of enrolled children and adult participants and must notify them if contact information will be shared with an external organization, for example, a local non-profit that will provide meal delivery. Once the CACFP operator receives written consent from the parent or guardian to release contact information, the information may be shared with other organizations involved with meal delivery.

**32. Do CACFP home-delivered meals need to be shelf stable?**

No. The type of meal offered will depend on the resources and capacity of the Program operator. Those that are able to prepare ready-to-eat meals and have the capacity to deliver meals daily in a way that meets State or local food safety requirements may do so.

**33. Does the child or adult participant need to be present for CACFP home meal delivery?**

No. As long as the CACFP operator has obtained the household's written consent to deliver meals and has verified the current address, the child or adult participant does not need to be present at the time of delivery. If the meals are shelf stable, no one need be present, as long as the address has been verified. Please consider State and local food safety requirements and best practices.

**34. Can CACFP State agencies and sponsoring organizations add new centers and facilities during the COVID-19 emergency?**

Yes, State agencies and sponsoring organizations can add new centers and day care homes that are providing care during the coronavirus pandemic. However, State agencies and sponsoring organizations must complete all aspects of the application and approval process. It is up to each State agency or sponsor to determine if they have the capacity to add centers and facilities based on their systems and other resources, such as the availability of inspections and licensing.

**35. Are State agencies and sponsoring organizations required to conduct pre-approval reviews for new CACFP centers and day care homes during the coronavirus pandemic?**

Yes, to ensure program integrity during the emergency response, State agencies and sponsoring organizations are still required to conduct pre-approval reviews for new institutions and facilities. However, through authority established by the Families First Coronavirus Response Act (P.L. 116-127), FNS granted nationwide waivers of *onsite* monitoring requirements for State agencies and *onsite* monitoring of new facilities for sponsoring organizations. State agencies and sponsoring organizations that elect to use these waivers may conduct pre-approval reviews off-site through a desk audit.

**36. During COVID-19 how may we offer the enrichment activity if we are operating in a non-congregate setting for social distancing and safety?**

CACFP At-risk afterschool care centers providing non-congregate meals under Child Nutrition Response #87, *Nationwide Waiver to Allow Non-Congregate Meal Service for School Year 2021-2022*, <https://www.fns.usda.gov/cn/child-nutrition-response-87>, must comply with the requirement to provide an education or enrichment activity (7 CFR 226.17a(b)(1)). However, under the non-congregate and parent pick-up waivers, these activities may be conducted virtually or in other non-congregate ways. Program operators may consider offering online homework assistance, activity packets, electronic games and books, or other e-learning activities for the children to partake in at home. For example, Team Nutrition offers a variety of online games, books, and nutrition education activities for children at: <https://www.fns.usda.gov/tn/digital-nutrition-resources-kids>. Although children are not required to participate in or complete the activity in order to receive an afterschool meal or snack, the afterschool care center must offer the activity.

**37. May CACFP At-Risk sites/sponsors that did not serve weekend meals prior to COVID-19 expand to provide weekend meals with a non-congregate enrichment activity?**

Yes. Federal regulations at 7 CFR 226.17a(b) state that CACFP at-risk centers that provide care for children on weekends during the regular school year may claim meals served on weekends. However, in making decisions about whether a program should operate on weekends, States, at-risk sponsors, and at-risk centers are encouraged to tailor their operations to the needs of the community; State agencies should review program operations with this in mind. In addition, the State agency must ensure that CACFP at-risk centers serving weekend meals also provide weekend at-risk enrichment activities, either in person or virtually, on the weekend days for which meals are served. For example, if an at-risk center serves meals intended for consumption on Saturday, they must provide access to an enrichment activity on that Saturday.



**38. For CACFP at-risk afterschool care programs that are providing on-site care to children attending school virtually due to COVID-19, what meals may be served?**

Per Federal regulations at 7 CFR 226.17a(m), when school is in session, a CACFP at-risk meal and/or snack must be served after the child's school day. Schools that are operating virtually for some of their students are considered to be in session; therefore, the afterschool program would need to plan their meal service around the time of the virtual school day. Only a meal and/or snack served after the virtual school day is over would be reimbursable.

FNS understands that programs caring for students attending school virtually would be in a position to serve meals during the school day. CACFP at-risk afterschool care programs can work with their State agencies to explore operating CACFP as child care centers. Under regular CACFP, the program would have more flexibility in when a meal and/or snack could be served; however, only the maximum number of meals allowed under the program would be reimbursable.

**39. May CACFP at-risk afterschool programs that are not caring for children on-site provide meals through alternate meal service options?**

Yes. FNS recognizes that program operators need additional support and flexibility to continue safely serving meals to children as they work toward reopening. Under the nationwide non-congregate feeding and parent pick-up waivers, at-risk programs may provide meal deliveries and grab-and-go meals. If applicable, any State agency meal service times may also need to be waived using Child Nutrition Response #88, *Nationwide Waiver of Meal Times Requirements for School Year 2021-2022*, <https://www.fns.usda.gov/cn/child-nutrition-response-88>. In all instances, some type of enrichment activity must be included. In addition, when meals are being provided for children that are not in on-site care, at-risk suppers and/or snacks may be distributed before the end of the school instructional day.

For meal deliveries, the processes outlined in questions #14-18 must be followed. Please note that meal deliveries would be limited to children that participate in the at-risk afterschool care program. Therefore, the program would need to collect appropriate information in order to make and track deliveries.

**40. May a child care center or day care home claim reimbursement for CACFP meals that children take home to consume on weekend days when they are not in care?**

CACFP centers and day care homes that are approved for non-congregate feeding and meal service time flexibility may provide meals for a child to consume on weekends, as long as the facility is approved to serve meals on weekends and the child is enrolled for weekend care. That means the facility must be licensed and approved to

provide weekend care, even if the center or day care home is not providing care on-site due to COVID-19. The State-sponsor agreement must indicate the days and types of meals for which the facility is eligible to claim reimbursement. For example, if a facility is licensed to provide child care seven days a week and a child is enrolled to attend child care Thursday through Saturday, the facility may claim meals served to the child on those days, even if the child is not physically in care due to COVID-19.

**41. How can CACFP at-risk centers track attendance to claim reimbursement for meals and snacks served to children participating virtually?**

At-risk centers approved to participate under the COVID-19 waivers continue to maintain attendance records, as required under 7 CFR 226.17a(o)(1). This includes daily attendance rosters, sign-in sheets, or with State agency approval, other methods that result in accurate recording of daily attendance. When children participate virtually, flexibility in using other methods may be needed. For example, if it would result in accurate recording of daily attendance, the State agency may approve documentation of meal pick-up or meal delivery as a record of a child's attendance. The State agency should work with at-risk centers and sponsors to develop appropriate methods to document attendance and conform with the program's COVID-19 safety policies.

**42. For afterschool programs, if the educational or enrichment activity is electronic and a child does not have access to the required electronic device, is the activity still considered available to all?**

As Program operators plan enrichment activities for participating children, FNS encourages them to consider the ability of children to access various activities. It may be appropriate to offer some activities that children could participate in without internet access or electronic devices, such as books, activity packets, or coloring sheets. Team Nutrition offers a variety of games, books, and nutrition education activities for children at: <https://www.fns.usda.gov/tn/digital-nutrition-resources-kids>. Although children are not required to participate in or complete an activity in order to receive an afterschool meal or snack, whatever activities are offered should include options that are accessible to all participating children.

**43. May CACFP at-risk centers providing extended care during the day (both school hours and afterschool hours) claim reimbursement for a breakfast and/or lunch served in addition to the one meal and one snack allowed for at-risk?**

No. Centers that are only approved to operate under the CACFP at-risk component may not claim reimbursement for meals that exceed their program meal limitation of one meal and one snack per child, per day. CACFP child care centers that operate a separate daytime child care and at-risk afterschool program may be approved to claim reimbursement for up to two meals and one snack, or one meal and two snacks, per child, per day. This applies to children who attend just the daytime child care or attend both programs. For children that attend both programs, the center must ensure

duplicate meals are not claimed. CACFP at-risk centers that wish to also operate a licensed child care program should contact their State agency for guidance.

**44. As child care centers continue to open, they may have limited schedules and hours of operation. Can centers provide a combination of congregate and non-congregate meals?**

Yes. Under the nationwide waivers, child care centers that remain open can provide congregate meal services to children in attendance and arrange for non-congregate meal service pick-up or delivery for the children who are not in attendance. For example, a center that is open only until 2 pm may serve breakfast and lunch to children in a congregate setting, and then send the children home with an afternoon snack. The center must ensure that each child receives not more than one of any type of meal each day. For example, a child may not receive a congregate and a non-congregate lunch on the same day. The center must also ensure that it does not claim more than two meals and one snack per child, per day.

#### **IV. MULTI-PROGRAM SPONSORS**

**45. Can an SFA that participates in both SSO and CACFP At-Risk provide meals and snacks through SSO and CACFP At-Risk to each participant? Do the Programs have to be operated at the same site or different sites? Can participants pick up multiple meals at once?**

An SFA, if approved to operate both Programs, may locate them at the same or at different sites. The SFA may allow children to pick up multiple meals from each Program at one time. However, the maximum number of meals that may be offered to each child may not exceed the number of meals allowed by each Program. Under SSO, up to two meals or one meal and one snack, per child, per day, in any combination except lunch and supper, are allowed. Under CACFP At-Risk, up to one snack and one meal per child per day are allowed. If the SFA is operating both Programs at the same site and all the meals for both Programs are picked up at the same time, each Program must keep accurate meal counts and claim only the meals served for that specific Program.

The State agency may approve a plan that includes pick-up of meals for multiple days, up to one week at a time.<sup>7</sup> The State agency should consider the expected duration of the school closure and the capacity of the sponsor to execute such an approach effectively, including meeting State or local food safety requirements.

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<sup>7</sup> The burden associated with the integrity plan requirement will be included in an upcoming change request to FNS Information Collection Needs due to COVID-19, OMB Control #0584-0654, expiration date 01/31/2022.

**46. May school-age children who are attending school virtually and who also are enrolled and attending child care during the day receive meals through both CACFP and school meal programs?**

Yes. Students enrolled in both school and child care may receive meals through multiple Child Nutrition Programs. However, State agencies must have an integrity plan with appropriate measures in place to ensure that program accountability is maintained and that program meal limits for the SBP, NSLP, (including SSO), and CACFP are not exceeded.<sup>8</sup> Specific decisions regarding development and implementation of this plan are at the discretion of the State agency. However, the plan must include the processes the State agency is implementing.

**V. CIVIL RIGHTS**

**47. Is the Nondiscrimination Statement required on informational materials and websites?**

States are not relieved of their obligation to include the required Nondiscrimination Statement (NDS) on all printed and electronic program materials made available to applicants, participants, and potentially eligible persons for public information, public education, or public distribution. This includes, but is not limited to, information pertaining to eligibility, benefits, services, the location of local facilities or service delivery points, and hours of service.

If the size of the material is too small to include the full statement, the material must, at a minimum, include the following statement in print in the same font size as the main text: “This institution is an equal opportunity provider.” On websites, the Nondiscrimination Statement (NDS) or a link to it, must be included on the home page of the program information.

Recognizing that print media (television, radio, and Internet announcements) are generally short in duration, the full NDS must be provided to the media outlet but does not need to be read or printed in its entirety. The single line, short NDS is sufficient to meet the requirement. Additionally, for programs that include a funding statement at the conclusion of the announcement, it is allowable for the short NDS to follow the funding statement. For example, “Pennsylvania WIC is funded by the USDA. This institution is an equal opportunity provider.”

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<sup>8</sup> The burden associated with the integrity plan requirement will be included in an upcoming change request to FNS Information Collection Needs due to COVID-19, OMB Control #0584-0654, expiration date 01/31/2022.

**48. Will meal pattern waivers affect a program operator’s responsibility to make meal modifications for participants with disabilities?**

During this public health emergency, States and program operators are not relieved of their obligation to provide meal modifications for participants with disabilities. When planning a non-congregate meal service, State agencies and program operators should consider how individuals who require meal modifications will be identified and served.

**49. Do you need to have “And Justice for All” (AJFA) posters on mobile routes for COVID-19 meal distribution?**

The AJFA poster must be prominently displayed in all facilities and locations that distribute Program benefits or administer services. Due to COVID-19, if printed AJFA posters are not available for display, paper copies may be substituted as necessary, including use of the 2015 AJFA poster, if new (2019) posters have not been received. Meals delivered from stationary vans or buses should display the AJFA poster. For vehicles making door-to-door drop deliveries at homes and businesses, the AJFA poster does not need to be displayed.

**50. For SY 2021-2022, some schools are considering providing meals in the classroom rather than the cafeteria. In those situations, do the schools need to display an And Justice for All poster in every classroom?**

No. It is not feasible or cost-effective to require that each classroom in a school display an And Justice for All Poster. Instead, schools can display posters in prominent locations throughout the school, such as a bulletin board in the main building entrance, the school office, or another area frequently visited by parents/guardians and children. Schools may copy posters and put one in each classroom, but that is not required.

**51. Are States required to provide free language assistance?**

During this public health emergency, States are not relieved of their obligation to ensure meaningful access to services for limited English proficient (LEP) persons. This includes both providing interpretation services and translating critical documents. More guidance can be found in the publication, *Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency* at <https://www.govinfo.gov/content/pkg/FR-2014-11-28/pdf/2014-27960.pdf>.

**52. Is providing auxiliary aides and services required?**

States are required to provide auxiliary aides and services for those who may need special assistance as long as doing so does not fundamentally alter the nature of the

program. Planning for new sites and new methods of delivery should include considering how individuals with disabilities will be identified and served. State agencies should focus on determining how they can help persons with disabilities have equal access to the program(s) and not on establishing additional criteria that participants must meet to receive an accommodation.