



Food and Nutrition Service

Braddock Metro Center

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DATE: May 29, 2020

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SUBJECT: Questions and Answers on the Nationwide Waiver to Extend Unanticipated School Closure Operations through June 30, 2020¹

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

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| Issuing Agency/Office: | FNS/Child Nutrition Programs |
| Title of Document: | Questions and Answers on the Nationwide Waiver to Extend Unanticipated School Closure Operations through June 30, 2020 |
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| Summary: | (1)This memorandum provides clarification on questions related to COVID-19: Child Nutrition Responses #21, Nationwide Waiver to Extend Unanticipated School Closure Operations through June 30, 2020. (2) This memorandum applies to State agencies administering, and local organizations operating, the Summer Food Service Program and National School Lunch Program Seamless Summer Option during unanticipated school closures. (3) This document relates to requirements under the Richard B. Russell National School Lunch Act at 42 U.S.C. 1761(c)(1), Program regulations at 7 CFR 225.6(b)(1) 7 CFR 225.6(b)(4), 7 CFR 225.6(c)(1), 7 CFR 225.6(c)(2)(i)(G), 7 CFR 225.6 (c)(3)(i)(B), 7 CFR 225.6(e)(1)(iii), 7 CFR 225.7(a), 7 CFR 225.7(d)(1)(i), 7 CFR 225.14(a), and 7 CFR 225.15(d)(1), and waivers pursuant to the Families First Coronavirus Response Act of 2020 (P.L. 116-127). |
| Disclaimer: | The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any |

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).

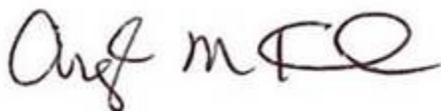
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| | way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. |
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This memorandum includes questions and answers intended to provide clarification to State agencies and Program operators as they transition from unanticipated school closure operations to traditional Summer Food Service Program (SFSP) or National School Lunch Program Seamless Summer Option (SSO) operations. *COVID-19: Child Nutrition Response #21, Nationwide Waiver to Extend Unanticipated School Closure Operations through June 30, 2020* allows States and sponsors to continue their unanticipated school closure operations through June 30, 2020, using existing operational flexibilities for unanticipated closures in the SFSP regulations. This waiver also delays the June 15 deadline for sponsor applications for traditional summer operations in favor of a date determined by the State agency.

Pursuant to the Families First Coronavirus Response Act of 2020 (P.L. 116-127), 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. Additional information on the FNS Response to COVID-19 is available at <https://www.fns.usda.gov/disaster/pandemic/covid-19>.

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.

Sincerely,



Angela M. Kline
Director
Policy and Program Development Division

Questions and Answers

1. What is the purpose of this nationwide waiver?

This waiver is intended to allow State agencies the flexibilities they need to transition at their own pace from unanticipated school closure operations to traditional SFSP operations.

Specifically, this waiver assists State agencies and sponsors by extending the period during which they may operate unanticipated school closure operations. The National School Lunch Act and SFSP regulations specify that unanticipated school closure programs may only operate from October to April. This waiver allows States and sponsors to continue their unanticipated school closure operations through June 30, 2020, using existing operational flexibilities for unanticipated school closures in the SFSP regulations, described in Question #4.

This waiver also helps States and sponsors by delaying the June 15 deadline for sponsor applications for traditional summer operations in favor of a date determined by the State agency that takes into consideration their local conditions and administrative capabilities.

2. Are State agencies required to use this waiver?

No, use of this waiver is optional. State agencies may begin their traditional summer operations on schedule or may delay them in favor of continued unanticipated school closure operations, whichever is most beneficial to them.

Similarly, State agencies are not required to delay application deadlines for sponsors; they may continue to adhere to the June 15 application deadline.

3. How do State agencies utilize this waiver?

As for all nationwide waivers, use of this waiver is optional for State agencies. State agencies that elect to participate in this waiver must inform their FNS Regional Office in writing. State agencies do not need to inform the Regional Office of each local Program operator that intends to participate under the waiver. States that elect to participate in the waiver should work quickly to provide guidance to Program operators on available operational flexibilities.

4. What specific allowances for unanticipated school closures are extended by this waiver?

This waiver extends all existing regulatory flexibilities for sponsors operating SFSP during an unanticipated school closure, intended for use between October and April, until June 30, 2020. These allowances are:

225.6(b)(4) - The State agency may approve a sponsor for participation during an unanticipated school closure, from October through April, without a prior application if the sponsor participated in the program at any time during the current year or in either of the prior two calendar years. This waiver extends the exemption from application approval to June 30, 2020.

225.6(c)(1) - Sponsors proposing to serve an area affected by an unanticipated school closure during the period from October through April may be exempt, at the discretion of the State agency, from submitting a new application if they have participated in the program at any time during the current year or in either of the prior two calendar years. This waiver extends the exemption from application submission to June 30, 2020.

225.6(c)(2)(i)(G) and 225.6(c)(3)(i)(B) - For sites that a sponsor proposes to serve during an unanticipated school closure during the period from October through April, any site which has participated in the Program at any time during the current year or in either of the prior two calendar years shall be considered eligible without new area eligibility documentation. This waiver extends the exemption from area eligibility documentation to June 30, 2020.

225.6(e)(1)(iii) - Sponsors with a State-sponsor agreement to operate a nonprofit food service during the period from October through April for unanticipated school closures may continue operating under the agreement through June 30, 2020.

225.7(a) - State agencies are not required to conduct training for sponsors operating the Program during unanticipated school closures during the period from October through April. This waiver extends the exemption from training to June 30, 2020.

225.7(d)(1)(i) - Pre-approval visits of sponsors proposing to operate the Program during unanticipated school closures during the period from October through April may be conducted at the discretion of the State agency. This waiver extends the exemption of pre-approval site visits to June 30, 2020.

225.14(a) - Sponsors proposing to operate a site during an unanticipated school closure during the period from October through April may be exempt, at the discretion of the State agency, from submitting a new application if they have participated in the Program at any time during the current year or in either of the prior two calendar years. This waiver extends the application submission exemption to June 30, 2020.

225.15(d)(1) - The State agency may waive sponsor training requirements for operation of the Program during unanticipated school closures during the period from October through April. This waiver extends the exemption from training requirements to June 30, 2020.

5. What new flexibilities does this waiver provide?

The nationwide waiver waives the June 15 sponsor application deadline at 225.6(b)(1), allowing each State agency to establish a later deadline, if necessary, for Program application submission. The waiver does not exempt sponsors from application submission altogether, nor does it exempt the State agency from processing sponsor applications. With new sponsors joining the unanticipated school closures effort and with traditional SFSP sponsors returning for the summer, State agencies may find that an extended application submission deadline provides a good opportunity for sponsors and the State to revisit their plans and reset their operations.

6. The waiver states that, “the intent of this waiver is to allow State agencies to permit Program operators to operate under current unanticipated school closure requirements (regardless of their current closure status) for the duration of this waiver.” What does “regardless of their current closure status” mean?

This waiver is meant to allow participating school districts to continue to operate under unanticipated school closures until June 30, regardless of when their planned school year was going to end. This is consistent with the statutory definition of a school year in Section 12 of the Richard B. Russell National School Lunch Act (U.S.C. 1760 (d)(6)) and provides a consistent application of this term in this unprecedented school year.

7. How does this waiver impact CACFP At-Risk afterschool programs?

CACFP At-Risk afterschool programs may choose to end At-Risk operations at the end of the planned school year, or continue to operate under this waiver until June 30. Once the State or school district transitions to traditional SFSP, At-Risk operations will cease. At-Risk afterschool programs can only operate during the school year; therefore, At-Risk and traditional SFSP cannot operate at the same time. However, At-Risk programs can choose to operate as SFSP sponsors or sites if eligible and approved by the State agency.

8. Do the other nationwide waivers continue to apply once the transition is made to traditional SFSP/SSO?

Yes. The policy flexibilities offered by the collective nationwide waivers for COVID-19 operations continue to apply after Program operators transition to traditional SFSP or SSO operations. FNS will continue to assess conditions and will consider extensions of the nationwide waivers if the need for policy flexibilities continues.

9. *COVID-19 Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) Meal Delivery Using Existing Authority, March 9, 2020, allows school food authorities (SFAs) to serve non-congregate meals via home meal delivery. May SFSP sponsors that are not SFAs also serve non-congregate meals via meal delivery?*

Yes. Community organizations that sponsor SFSP may serve non-congregate meals via meal delivery. If a community organization determines there is a need and it is logistically feasible to deliver meals directly to homes, it may do so with State agency approval, adherence to all Federal confidentiality requirements, and with State election of all necessary Federal waiver approvals. Delivery could be completed by mail or delivery service, or be hand-delivered by the sponsor's staff, volunteers, or others.

Sponsors that are not working in coordination with an SFA will not have access to school rosters of eligible children. For that reason, these sponsors must develop a method of notifying households in an area-eligible community that SFSP meals are available to all children who request them. These sponsors must also develop a method for households to provide written consent to initiate meal delivery, to confirm the household's current contact information and delivery location, and to confirm the number of children in the household that require meals. Households also must have a way of notifying the sponsor of the need for individual substitutions due to medical or other special dietary needs.

All other requirements for meal delivery in *COVID-19 Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) Meal Delivery Using Existing Authority, Questions and Answers* apply. For complete information, see <https://www.fns.usda.gov/sfsp/covid-19/covid-19-meal-delivery#QA>.

10. *For both SFAs and non-SFA (community organization) sponsors serving non-congregate meals via home meal delivery models that utilize bus routes or mobile meal routes, should each stop be considered an SFSP site? Do they have to adhere to site requirements for a mobile meal service?*

No. When performing home delivery of SFSP meals for a COVID-19 food service, even though the meals may be delivered via a school bus route or a mobile meal route normally used for SFSP congregate meal service in the summer months, each home would not be considered a site. Therefore, the SFSP site requirements, including site approval by the State agency, do not apply. Instead, the SFSP sponsor should ensure that the operation adheres to requirements for home meal delivery in *COVID-19 SFSP and Seamless Summer Option Meal Delivery Using Existing Authority, March 9, 2020*, at <https://www.fns.usda.gov/sfsp/covid-19-meal-delivery>.

11. Do the existing policies for SFAs in SP 07-2013, SFSP 04-2013-REVISED, *Summer Feeding Options for School Food Authorities*, November 23, 2012, and for CACFP operators in SP 06-2014, CACFP 03-2014, SFSP 06-2014, *Available Flexibilities for CACFP At-risk Sponsors and Centers Transitioning to Summer Food Service Program*, November 12, 2013, still apply for summer 2020?

Yes. State agencies may allow SFAs and CACFP operators to use the flexibilities in SP 07-2013, SFSP 04-2013-REVISED and SP 06-2014, CACFP 03-2014, SFSP 06-2014 to streamline the transition to traditional SFSP or SSO operations for summer 2020. Flexibilities relate to applications, agreements, site eligibility, health and safety inspections, training, monitoring, and financial management. For complete information, see <https://www.fns.usda.gov/cn/summer-feeding-options-school-food-authorities> and <https://www.fns.usda.gov/cn/available-flexibilities-cacfp-risk-sponsors-and-centers-transitioning-summer-food-service-program>.