



Arizona Department of Education
Health & Nutrition Services Division

HNS 30-2021

MEMORANDUM

To: School Food Authorities Operating the National School Lunch Program and Seamless Summer Option

From: Melissa Conner, Associate Superintendent

Date: September 29, 2021

Subject: Guidance on the Use of the School Year 2021-2022 Meal Pattern Waiver

Original Signed

The purpose of this memorandum is to provide guidance for operators of the National School Lunch Program (NSLP) and the Seamless Summer Option (SSO) on the use of the School Year 2021-2022 (SY 21-22) meal pattern waiver and how the Arizona Department of Education (ADE) Health and Nutrition Services (HNS) will assess meal pattern compliance during the Administrative Review (AR). Additionally, this memorandum includes answers to common questions related to this guidance.

The United States Department of Agriculture (USDA) Food and Nutrition Services (FNS) issued [COVID-19 Response #90: Nationwide Waiver to Allow Specific School Meal Pattern Flexibility for School Year 2021-2022](#), which provides operators with flexibilities for meeting certain meal pattern requirements to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19) during SY 21-22. This waiver allows States to grant requests from program operators who wish to participate under this waiver. The following meal pattern requirements are included in this waiver:

- Menus must meet the dietary specification for sodium;
- All grains offered must be whole grain-rich;
- For pre-schoolers, at least one serving per day, across all eating occasions, must be whole grain-rich;
- Offer a variety of vegetables from the vegetable subgroups;
- Offer a variety (at least two different options) of fluid milk;
- Low-fat milk must be unflavored; and
- Menus planned and food components offered for specified age/grade groups in the stated combinations.

All other meal pattern requirements remain in effect. This waiver is effective October 1, 2021, through June 30, 2022.

Allowable Use and State Agency Approval

This waiver will only apply to situations when the meal pattern requirements for sodium, whole grains, vegetable subgroups, milk variety, low-fat flavored milk, and/or the age/grade groups cannot be met while School Food Authorities (SFAs) are implementing COVID-19 safety protocols. USDA recognizes that SFAs continue to face operational constraints in SY 21-22 that require flexibility in the NSLP and School Breakfast Program (SBP) meal pattern requirements. Many Local Educational Agencies (LEAs) are implementing COVID-19 safety protocols, such as distance learning, that require alternative meal service models that make it difficult to meet all meal pattern requirements. For example, serving meals in a curbside model or on a bus route may limit an SFA's ability to offer a variety of milk and meet the age/grade group requirements. Additionally, many SFAs are relying on grab-and-go and shelf-stable foods that are pre-packaged, which may limit their ability to meet the sodium and vegetable subgroup requirements. The flexibilities provided in this waiver support SFAs with making nutritious meals accessible to participants while minimizing potential exposure to COVID-19. With the exception of the sodium requirements, local program operators must request use of this waiver from their State agency, as described below.

Recognizing COVID-19 safety protocols and alternative meal service will be established for the majority of the school year, HNS will approve a single request for use of this waiver and expects that the flexibilities provided for this school year will only be utilized as needed. HNS incorporated the meal pattern waiver opt-in within the CNPWeb Sponsor application to allow SFAs to indicate the COVID-19 safety protocols that their LEA is implementing, which demonstrate a targeted and justified need for flexibilities in meeting the meal pattern requirements. To opt into the waiver to allow specific school meal pattern flexibility when implementing safety protocols, SFAs must:

- Choose "Yes" in Section 5 of the NSLP Sponsor application;
- Agree to the attestation statement; and
- Check the boxes for the COVID-19 meal service plans that require use of the waiver (e.g., social distancing, curbside, mobile routes, home delivery, classroom, and multiple meal distribution).

SFAs will be approved to operate under this waiver when the NSLP Sponsor application is approved by the assigned Health and Nutrition Services Specialist. Once approved, SFAs may utilize the waiver as needed without further notification to HNS until the waiver expires on June 30, 2022.

In August, USDA hosted a webinar on procurement strategies in SY 21-22 and indicated that State agencies may approve the use of the current meal pattern waiver when sodium, whole grains, vegetable subgroups, milk variety, low-fat flavored milk, and/or the age/grade groups and were not met for situations related to supply chain disruptions due to COVID-19. Please note that State agencies cannot approve waiver requests for meal pattern requirements that were not covered in the nationwide waiver. For example, an operator may not use the meal pattern waiver to waive the entire fruit component due to a supply chain disruption, as the requirement to serve a daily and weekly minimum amount of fruit is not one of the flexibilities provided in the waiver. SFAs who have already opted into the meal pattern waiver in their CNPWeb application due to COVID-19 safety protocols are already approved to use the meal pattern flexibilities due to supply chain disruptions. SFAs who have not opted in and are in need of meal pattern

flexibilities due to supply chain disruptions, should revise their NSLP Sponsor application to opt in.

Assessing Meal Pattern Compliance During the Administrative Review

SFAs receiving an AR during SY 21-22 will be required to provide menu documentation for the week of review and day of review to demonstrate that meal pattern requirements were met, including how specific menu items contribute toward the meal pattern. In addition to COVID-19 Response #90, FNS issued [*COVID-19 Response #100: Waiver to Allow Fiscal Action Flexibility for Meal Pattern Violations Related to COVID-19 Supply Chain Disruptions Impacting School Meals in School Year 2021-2022*](#). This waiver grants State agencies the flexibility to waive the requirement to apply fiscal action during the AR for missing food components, missing production records, or repeated violations involving milk type and vegetable subgroups if these requirements were unable to be met due to a supply chain disruption.

In the event the menu does not meet the meal pattern during the week of review or day of review, SFAs will need to provide documentation to justify that the meal pattern flexibilities used were needed due to either the implementation of COVID-19 safety protocols requiring modified meal service operations or supply chain disruptions. Documentation could include a written explanation of meal service operations and/or invoices or emails from vendors.

- In the event that the requirements for whole grains, vegetable subgroups, milk variety, low-fat flavored milk, and/or the age/grade groups were not met during the week of review or day of review, the reviewer will confirm the SFA has opted into the meal pattern waiver (COVID-19 Response #90) and request documentation to determine if the reasons for non-compliance were due to the implementation of COVID-19 safety protocols requiring modified meal service operations or supply chain disruptions. If this documentation is sufficient in supporting the intent of the waiver, the State agency will record use of the waiver and will not be considered a review finding.
- In the event that entire food components or production records are missing, or there is a repeated violation of the milk type or vegetable subgroup requirements not being met during the week of review or day of review, the reviewer will request documentation from the SFA to determine if the reasons for non-compliance were due to supply chain disruptions. If this documentation is sufficient in supporting the intent of the waiver, the State agency has the ability to not assess fiscal action, but it will still be considered a review finding.

Reporting Requirements

Operators must provide the State agency any necessary information to complete USDA reporting requirements on the use of the meal pattern waiver; this includes whether and how the meal pattern flexibilities resulted in improved services to program participants. HNS will release a separate memorandum on the waiver reporting requirements at a later date. Operators are expected to be prepared to report on how the meal pattern waiver was used. ADE recommends keeping a record of when the meal pattern waiver is used to assist with providing the information needed to meet the reporting requirement. This could include documenting information such as the meal pattern flexibility used, the time frame it was used, and the allowable reason for which it was used.

Questions and Answers

1. Do I need to opt into the meal pattern waiver each time I need to use it?

No. In SY 21-22, operators only need to opt into the meal pattern waiver once via the CNPWeb NSLP Sponsor application. However, operators are encouraged to document each instance the meal pattern waiver was used to assist with future reporting requirements.

2. Due to a food supply issue, I was unable to serve fruit one day. Can I use the meal pattern waiver for this instance?

No. The meal pattern waiver may only be used for the specific meal pattern flexibilities allowed by USDA (see page 1). If a school was unsuccessful in procuring any fruit, the waiver may not be used in this instance.

3. Due to a food supply issue, I was unable to serve fruit one day during the week of review of my Administrative Review. Can I use the meal pattern waiver (COVID-19 Response #90) and be in compliance?

No. The meal pattern waiver (COVID-19 Response #90) may only be used for the specific meal pattern flexibilities allowed by USDA (see page 1). If a school was unsuccessful in procuring any fruit, the waiver may not be used in this instance. However, the State agency may use the fiscal action waiver (COVID-19 Response #100) to not assess fiscal action when the menu is missing a component.

4. If the meal pattern waiver is only a one-time opt in, how can operators notify HNS of supply chain disruptions impacting meal service operations?

HNS has created the [Food Supply Disruption Reporting Form](#) for operators to report any food-related issues that impact their ability to serve menus as originally planned. This short, simple form is available online on the [COVID-19: Guidance to Child Nutrition Operators Webpage](#) under the accordion, *Reporting Food Supply Disruptions*.

5. Where can I access the recording for the procurement webinar for SFAs that USDA provided in August 2021?

The webinar recording can be accessed on the USDA Team Nutrition webpage at: <https://www.fns.usda.gov/tn/procurement-strategies-school-year-2021-2022-webinar-school-food-authorities>.

Please contact your Health and Nutrition Services Specialist with any questions regarding this guidance. You may also call 602-542-8700, Option 1, or email ContactHNS@azed.gov to reach the Specialist of the Day.

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