



HNS 08-2022

## MEMORANDUM

**To:** Operators of Child Nutrition Programs

**From:** Melissa Conner, Associate Superintendent  
Health and Nutrition Services

**Date:** July 8, 2022

**Subject:** Transitional Waivers for Summer 2022 and School Year 2022-23

*Original Signed*

A suite of individual waivers from the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) are being offered to state agencies to assist State and local Program operators transition back to normal operations of child nutrition programs this summer and in School Year 2022-23 (SY 2022-23). The purpose of this memorandum is to provide an overview of the child nutrition program flexibilities, provided in the form of waivers, that FNS has authorized Arizona Department of Education (ADE) to offer to local Program operators. FNS expects that flexibilities will only be used for the duration and extent needed and tied to COVID-19 related instances. This memorandum informs Child Nutrition Program operators about the conditions for which these waivers may be implemented for use in Arizona.

### Background

Prior to the signing of the Keep Kids Fed Act of 2022 (KKFA) in June 2022, FNS was not granted authority by Congress to issue nationwide waivers. The Secretary of Agriculture retained the authority based on Section 12(l) of the National School Lunch Act (NSLA), 42 U.S.C. 1760(l) to grant individual state or eligible service provider waiver requests when certain conditions are met, including the requester providing notice and information to the public; and the waiver will not increase the overall cost of the Program to the Federal Government. FNS [pre-identified 26 flexibilities](#), in the form of numbered waivers, that are being offered to state agencies to allow program operators to respond to COVID-19-related issues. FNS expects that flexibilities will only be used for the duration and extent needed and tied to instances when congregate meal service is limited by the COVID-19 pandemic (Waivers 1-6, 12-24) or needing to overcome administrative challenges resulting from COVID-19 (Waivers 7-11, 25-26).

## Available Waivers in Arizona

USDA approved ADE for the 23 requested statewide waivers and intended flexibilities for summer ([Waivers 1 and 2](#)) and SY 2022-23 ([Waiver 3-8, 10-22, 25-26](#)). At this time, ADE does not expect pandemic conditions to interfere with the ability of the State agency and sponsoring organizations to conduct reviews on-site. Therefore, ADE did not request Waiver 9: Administrative Review Onsite Requirements, Waiver 23: State Agency Onsite Monitoring Visits, or Waiver 24: Sponsoring Organization Onsite Monitoring Visits. Should pandemic conditions change, ADE retains the opportunity to request these additional waivers. The approval letter and list of approved flexibilities can be accessed on the USDA FNS webpage [CN Flexibilities for Summer 2022 and School Year 2022-23](#).

Most waivers are available statewide through June 30, 2023, and are not mandatory. Operators are permitted to use these flexibilities only for the duration and extent needed. With the signing of the KKFA, USDA can now issue nationwide waivers that may allow operators greater flexibility than what has been granted within statewide waiver approval. Program operators are encouraged to participate in the nationwide waivers when this occurs.

The remainder of this memorandum will review requirements to participate in statewide waivers providing flexibilities for non-congregate meal services related to COVID-19 and for recovering from administrative challenges.

### Participation Requirements

Program operators who choose to implement the statewide waiver(s) may only do so for the duration and extent that they are needed and may do so without any further application or notification to ADE. Program operators must follow the participation requirements described below and have documentation readily available to support the implementation of any flexibilities used only during the extent needed.

ADE is required to collect information regarding the use of COVID-19-related waivers and will issue future guidance to operators on how to report required information. Reporting will include but is not limited to: how the waivers impacted meal service operations at participating sites; how the waivers resulted in improved services; how the waivers reduced the quantity of paperwork necessary to administer the Program; and the number of operators that used the waivers.

#### *Participating in Statewide Non-Congregate Waivers*

The following statewide waivers are to equip schools and other program operators to quickly respond to health-related safety issues by offering grab-and-go and/or parent pickup of meals. In order to participate under the flexibilities for Summer Food Service Program/Seamless Summer Option (SFSP/SSO) ([Waivers 1 and 2](#)), National School Lunch Program/School Breakfast Program (NSLP/SBP) ([Waivers 3-6](#)), Special Milk Program (SMP) ([Waivers 12 and 13](#)), Fresh Fruit and Vegetable Program (FFVP) ([Waivers 14 and 15](#)) or unanticipated school closures ([Waivers 16-19](#)), Program operators must:

- define when congregate meal service is limited by COVID-19,
- have processes in place for maintaining accountability and program integrity during alternative meal service, and
- provide ADE any necessary information to complete the waiver reporting requirements.

Program operators should consider the anticipated impact on food service (i.e. administrative and operational capacity) and how the site will communicate to the public about such COVID-19-related instances when non-congregate meals are permitted. Program operators should consult with local administration when developing their plans as administration may already have site level policies defining instances of COVID-19 limiting congregation. Additionally, operators must develop written procedures for modifying operations, food safety practices, and recordkeeping to ensure meals served in a non-congregate setting are eligible under the waiver when such local conditions are met. This also includes establishing processes to ensure that meals are distributed only to parents or guardians of eligible children, and that duplicate meals are not distributed to any child. Operators should have such written policies and processes readily available to provide the state agency upon request.

### *Participation in Administrative Related Waivers*

The following waivers in this section apply to the NSLP and allow local Program operators to appropriately allocate their limited staffing resources to ensure safe service of meals to children as they respond to and recover from the COVID-19 pandemic. In order to participate under the flexibilities for Local School Wellness Policy Triennial Assessment ([Waiver 7](#)), Food Service Management Company (FSMC) contract duration ([Waiver 8](#)), FNS-874 Second (Independent) Review of Applications ([Waiver 11](#)), Paid Lunch Equity ([Waiver 25](#)), and Use of Prior Year Eligibility Determinations for School Year 2022-2023 Carryover ([Waiver 26](#)), operators must:

- assess limited staffing resources (Waivers 7 and 8) or assess challenges such as participation (Waivers 25 and 26), and
- provide ADE any necessary information to complete the waiver reporting requirements.

Program operators with questions regarding this guidance may contact their assigned HNS Specialist. Program operators are encouraged to distribute this information to administrators and school leaders and review the use of statewide flexibilities permitted for use when operations are limited by COVID-19.

*In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.*

*Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.*

*To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at:*

*<https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002->*

[508-11-28-17Fax2Mail.pdf](#), from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. mail:  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or
2. fax: (833) 256-1665 or (202) 690-7442; or
3. email: [program.intake@usda.gov](mailto:program.intake@usda.gov)

*This institution is an equal opportunity provider.*