



Area Eligibility for Summer 2022 and School Year 2022-2023

Purpose

This memorandum provides guidance to State agencies as they transition from COVID-19 Nationwide waivers related to establishment of area eligibility in the Child Nutrition Programs for summer 2022 and SY 2022-2023. The guidance was revised to include information regarding area eligibility and SFSP closed enrolled sites.

DECAL Note: No USDA guidance has been issued advising that the below information is applicable to SY 2023-2024 or any future school years.

Legal Authority

SP 10-2022, CACFP 08-2022, SFSP 04-2022

Requirements

Section 2202(a) of the Families First Coronavirus Response Act (the FFCRA) (P.L. 116127), as extended by the Continuing Appropriations Act, 2021 and Other Extensions Act P.L. 116-159), allowed the Food and Nutrition Service (FNS) to issue nationwide waivers related to pandemic conditions. This nationwide waiver authority, as authorized by the FFCRA, expires on June 30, 2022. School Food Authorities (SFAs) that operated the National School Lunch Program (NSLP) in school year (SY) 2021-2022 collected students' individual free and reduced price eligibility information that is required to make area eligibility determinations for summer 2022 and SY 2022-2023. However, SFAs that used the nationwide waiver [COVID-19: Child Nutrition Response #85, Nationwide Waiver to Allow the Seamless Summer Option through School Year 2021-22](#) to operate the NSLP Seamless Summer Option (SSO) during SY 2021-2022 do not have complete free and reduced price eligibility information to make area eligibility determinations for summer 2022 and SY 2022-2023. FNS explored potential resources and flexibilities within the Agency's existing authority to support continuity of operations as State agencies and Program

operators transition from the nationwide waivers. As part of that effort, FNS identified and will provide the area eligibility flexibilities described below to support Program operators as they continue to face challenges and uncertainties in their critical role to provide meals for children. These flexibilities apply to the NSLP afterschool snack program, SSO, Child and Adult Care Food Program (CACFP) at-risk afterschool and family day care homes, and the Summer Food Service Program (SFSP).

School data and census data are the primary data sources that may be used to determine whether a site is area eligible. Child Nutrition Program (CNP) statutory and regulatory provisions require that school data be used to establish area eligibility for at-risk afterschool care centers in the CACFP (42 U.S.C. 1766(r)(1)(B) and 7 CFR 226.17a(i)) and for schools providing NSLP afterschool snacks (42 U.S.C. 1766a(c)(1)). School data or census data may also be used to classify family day care homes as eligible for higher tier I reimbursement (42 U.S.C. 1766(f)(3)(A)(ii)(I)(aa) and (bb) and 7 CFR 226.15(f)) and to establish area eligibility of open sites in SSO and open and closed enrolled sites in SFSP (42 U.S.C. 1761(a)(1)(A)(i)(I) and (II) and 7 CFR 225.2 (see: [Areas in which poor economic conditions exist](#))).

In SY 2021-2022, schools participating in SSO did not collect free and reduced price applications and instead served all students free meals due to the impacts of COVID-19. As a result, schools do not have complete free and reduced price eligibility information to make area eligibility determinations for summer 2022 and SY 2022-2023. Therefore, FNS is offering two additional data options that sites may use to qualify as area eligible for summer 2022 and SY 2022-2023. Both options are available to Program operators as applicable, including SFAs and non-SFAs, who wish to use school data to make area eligibility determinations. However, these options are not available for sites located in the attendance area of schools that operated NSLP in SY 2021-2022. Sites that are (1) located in the attendance areas of schools that operated regular NSLP in SY 2021-2022 **and** (2) require a new area eligibility determination (i.e., 5 years have elapsed since area eligibility was last established), must use SY 2021-2022 application and direct certification data to establish area eligibility.

Option 1: Use of School Year 2019-2020 Free and Reduced Price Application Data

In the absence of complete SY 2021-2022 school-level free and reduced price data, Program operators may use school data from a designated month of SY 2019-2020 to qualify as area eligible in summer 2022 and SY 2022-2023. CACFP Program operators must use data from October 2019 unless the NSLP State agency elected a month other than October to establish area eligibility. For NSLP afterschool snacks, SFSP, and SSO, data used to determine area eligibility must be the most recent data available. Most commonly, this designated month will be October, although FNS encourages using school data from the same month used to designate area eligibility for CACFP.

Area eligibility determinations made using school data must be re-determined every five years, in accordance with the Richard B. Russell National School Lunch Act as outlined in [SP 08-2017 CACFP-04 SFSP 03-2017, Area Eligibility in Child Nutrition Programs, issued December 1, 2016](#). Therefore, area eligibility determinations made for summer 2022 using SY 2019-2020 data are effective through summer 2024, and determinations made for SY 2022-2023 may be effective through SY 2024-2025 (depending on the designated month selected, per the above). When area eligibility determinations expire and must be

re-determined, sites must use existing guidance in SP 08-2017 CACFP-04 SFSP 03-2017 to establish area eligibility.

Option 2: Allow All Schools to Use Community Eligibility

Provision Data

As discussed above, schools that operated SSO during SY 2021-2022 do not have complete free and reduced price data necessary to establish area eligibility. However, these schools were required to conduct direct certification with SNAP and may have continued to collect data on other "identified students," including those directly certified with other programs or who would have been categorically eligible for free school meals without an application. For Community Eligibility Provision (CEP) schools, the 1.6 multiplier provides an estimate of the total number of students eligible for free and reduced price meals in CEP schools; therefore, the product of the identified student percentage (ISP) multiplied by 1.6 is used as a proxy for the percentage of free and reduced price students for area eligibility purposes. If the result is equal to or greater than 50 percent, meal sites located at the school (or in the attendance area of the school) are area eligible.

FNS is extending the policy allowed for CEP schools, per [SP 08-2017 CACFP-04 SFSP 03-2017, Area Eligibility in Child Nutrition Programs](#), issued December 1, 2016, to *all* schools that operated SSO during SY 2021-2022 to use school-level ISP multiplied by the factor (1.6) to determine area eligibility. Although only schools that operated SSO during SY 2021-2022 may determine area eligibility using this option, as noted above, once area eligibility is established all NSLP afterschool snack program, SSO, CACFP at-risk afterschool and family day care homes, and SFSP operators may establish sites based on the determination.

Existing CEP Schools

A school that is already operating CEP must continue to determine area eligibility for its attendance area using its approved school-level ISP. Individual school data must be used to determine area eligibility, even if the school is participating in CEP as part of a group or district claiming with a shared ISP.

Non-CEP Schools

For Summer 2022 and SY 2022-23, schools that operated SSO during SY 2021-2022 and are not participating in CEP may use the same guidance as CEP schools to determine area eligibility for a school's attendance area. Therefore, the individual school's ISP is multiplied by a factor of 1.6. If the resulting percentage is at least 50, meal sites within the school's attendance area are area eligible¹.

Schools must calculate the ISP using data as of April 1, 2022. However, if the State agency has a waiver approved by FNS to extend this CEP deadline, schools may calculate the ISP using data drawn during the time period approved in the waiver. These percentages can be used for determining area eligibility in the SFSP, SSO, CACFP, and afterschool snacks provided through the NSLP. ***Determinations based on this option for non-CEP schools will only be valid for summer 2022 and SY 2022-2023.*** Area eligibility established using this option is not valid for five years. Schools that elect to use this option will have to establish area eligibility for summer 2023 and SY 2023-24 using SY 2022-23 school data.

Lastly, while State agencies must validate the ISP used when SFAs elect CEP, State agencies are not required to validate the ISP data used by non-CEP schools to establish area eligibility for Summer 2022 and SY 2022-2023. However, FNS recommends that State agencies validate the data if possible.

Importantly, using the CEP ISP data to establish area eligibility does *not* mean an SFA is electing CEP for SY 2022-2023. This option is only available to non-CEP schools, on this limited basis, to determine area eligibility in the absence of other school data as schools transition to non-pandemic operations. For more information on CEP, see [Community Eligibility Provision | Food and Nutrition Service \(usda.gov\)](#).

FNS appreciates the exceptional efforts of State agencies and local Program operators working to meet the nutritional needs of participants during this 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.

For questions concerning this memorandum, please contact the Policy Administrator at 404-651-8193.