Status Active PolicyStat ID 20907833

Georgia Dept of Early Care and Learning

Origination	10/21/2019
Effective	7/2/2026
Last Revised	7/2/2026
Area	Memo: Meals/Food Service
Programs	CACFP

Final Rule Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements, with Questions and Answers, October 21, 2019 (v.3)

Purpose

This memorandum seeks to inform institutions and sponsors participating in the Child and Adult Care Food Program (CACFP) of a permanent milk flexibility issued by the United States Department of Agriculture's (USDA) Food and Nutrition Service (FNS). A *Questions and Answers* (QAs) section has been added for additional clarity.

Further, this memorandum supersedes DECAL Policy Memorandum, *Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements*, October 21, 2019.

Specifically, effective July 1, 2019, institutions and sponsors are afforded the option to offer **flavored, low- fat (1%)** milk to participants ages six (6) and older.[1]

Additionally, **effective June 8, 2026**, CNP operators participating in NSLP (including NSLP afterschool snacks, the preschool meal pattern, and Smart Snacks in School), SBP (including the preschool meal pattern), CACFP, and SMP may offer children age 2 and older and adult participants whole, reduced-fat, low-fat, and fat-free fluid milk to meet fluid milk requirements in these programs. This memorandum has been updated to reflect the expanded options. Note: Some language reflecting the former milk options have been removed.

Legal Authority

USDA Policy Memorandum, SP 37-2019, CACFP 16-2019, September 23, 2019; Final Rule, *Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements,* (83 FR 63775); 7 CFR § 226.20(a)(1)(iii) and (iv); 7 CFR § 226.20(c)(1), (2) and (3); and USDA Policy Memorandum, SP 08-2026, CACFP 04-2026, Expanding Fluid Milk Options in Child Nutrition Programs.

Program Requirements

Background

In 2012, the USDA updated the National School Lunch (NSLP) and School Breakfast Program (SBP) meal requirements to reflect the latest Dietary Guidelines for Americans, as required by the Richard B. Russell National School Lunch Act. The updated requirements were largely based on recommendations issued by the Health and Medicine Division of the National Academics of Sciences, Engineering, and Medicine (formerly, the Institute of Medicine) and included updates to the milk, grain, and sodium requirements.

Relative to milk requirements, the regulations in 2012 allowed flavoring only in *fat-free* milk in the NSLP and SBP. Although Program operators reported success in implementing the updated nutrition standards, operational challenges remained. Thus, USDA issued policy guidance providing milk, grains, and sodium flexibilities for SY 2017-2018, while taking steps to formulate regulatory relief in these areas.[2] This policy guidance was followed by the interim final rule *Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements,* November 30, 2017.

FNS's interim rule established regulations that temporarily extended school meal flexibilities through SY 2018-2019 and extended the flavored milk flexibility to both the Special Milk Program for Children (SMP) and the CACFP for participants ages 6 and older in SY 2018-2019 only. As a result, the regulations applicable in SY 2018-2019 provided flexibility in three specific areas: milk; grain; and sodium. Importantly though, the interim rule's grain and sodium requirements did not extend to the CACFP. As such, the requirements related to **milk** were all that applied and still apply to CACFP participants. Further, the interim rule allowed milk flexibility, without the need to demonstrate hardship, in all Child Nutrition Programs (CNPs) and asked the public for comment on the long-term availability of the updated meal flexibilities offered.

The final rule (83 FR 63775) as explained in the guidance below, permanently establishes, with some exceptions, the three menu planning flexibilities *(i.e.,* milk, grain, and sodium) which were temporarily established in the interim rule. However, out of the three flexibilities, only the **milk** flexibility applies to participants in the CACFP.

FY 2026 - USDA Expands Fluid Milk Options

On May 8, 2026, the United States Department of Agriculture's (USDA) Food and Nutrition Administration (FNA) published the final rule with comment period, Expanding Fluid Milk Options in Child Nutrition Programs (91 FR 25073), effective June 8, 2026. This rule expands fluid milk options by allowing schools and child and adult care providers participating in Child Nutrition Programs (CNP) to offer whole and reduced-fat milk to participants two years and older.

This rule codifies milkfat requirements following enactment of the Whole Milk for Healthy Kids Act of 20251 (WMFHKA) (P.L. 119-69) and supports the statutory requirements for meals to align with the goals of the Dietary Guidelines for Americans, 2025–20302 (Guidelines). By removing previous fluid milkfat-content restrictions, this deregulatory rule restores flexibility to Program operators, allowing them to offer a greater variety of fluid milk options, including whole and reduced-fat milk, to meet the nutrition needs and preferences of the children and adults they serve.

Specifically, effective June 8, 2026, CNP operators participating in NSLP (including NSLP afterschool

snacks, the preschool meal pattern, and Smart Snacks in School), SBP (including the preschool meal pattern), CACFP, and SMP may offer children age 2 and older and adult participants whole, reduced-fat, low-fat, and fat-free fluid milk to meet fluid milk requirements in these programs. The updated fluid milk requirements for each age group are summarized below:
• Fluid milk served to children age 1 must be unflavored whole milk;
• Fluid milk served to children ages 2 through 5 may be unflavored whole, reduced-fat, low-fat, or fat-free milk; and
• Fluid milk served to children age 6 and older and adult participants may be unflavored or flavored, whole, reduced-fat, low-fat, or fat-free milk.

This rule modifies these restrictions and permits schools and child and adult care providers to offer child and adult participants expanded fluid milk options.

By broadening the flavored milk choices in CNPs such as the CACFP, USDA seeks to remove regulatory restrictions that may hinder milk consumption.

Attached are Questions and Answers (QAs) on the final rule *Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements* as cited to above. Such QAs address all three flexibilities (flavored milk, whole grains, and sodium) provided within the rule. **As a reminder, only the milk flexibility applies to participants in the CACFP.**

Comments

For questions concerning this memorandum, please contact the **Nutrition Health Educator** at (470) 464-6864 or the **Policy Administrator** at (404) 651-8193.

Questions and Answers

Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements Final Rule (83 FR 63775, December 12, 2018)

1. **When may Program operators use the flexibilities established by this final rule?**

   The implementation date of the flexibilities in this rule is July 1, 2019. This rule revises the whole grain-rich requirement beginning school year (SY) 2019-2020. Effective July 1, 2019, at least half of the weekly grains offered in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) must be whole grain-rich, and the remaining weekly grains offered must be enriched. Therefore, schools will be able to offer enriched grain items as part of the weekly menu and credit them toward the grains component.

   The flexibility also applies for adult participants in the CACFP. In addition, this rule retains sodium Target 1 in the NSLP and SBP through SY 2023-2024, and requires sodium Target 2 effective SY 2024-2025.

2. **How will the whole grain-rich flexibility impact breakfast when meats/meat alternates are used to meet part of the requirement?**

The whole grain-rich requirement applies *only* to grain-based food items, and not meat/meat alternates crediting toward the grains component. Half of the actual grains offered throughout the course of the week must be whole grain-rich. Whole grain-rich products contain at least 50 percent whole grains and the remaining grains if any, must be enriched.

3. **Does USDA have a useful tool for schools to use in tracking the amount of whole grains and enriched grains offered?**

   Schools may track meal components, including grains, using the following methods:

   1. USDA-approved software, purchased by schools (see https://www.fns.usda.gov/tn/usda- approved-nutrient-analysis-software)
   2. Certification of Compliance worksheets (see https://www.fns.usda.gov/school-meals/certification-compliance)
   3. Production records: The Menu Planner for School Meals includes sample production records (please note States may have their own specific documentation requirements)
      a. The Menu Planner for School Meals Chapter 4 https://fns.usda.gov/sites/default/files/tn/MenuPlanner Ch4 508.pdf
      b. The Menu Planner for School Meals - Appendix 4.A https://www.fns.usda.gov/sites/default/files/tn/TNMenuPlannerAppendixes.pdf

4. **What guidance exists for understanding the enriched grain requirements?**

   Enriched grains are refined grains that have been processed to remove the nutrient-rich bran and germ, and then have thiamin, riboflavin, niacin, folic acid, and iron added after processing. Similarly, a food that is fortified has certain vitamins and minerals added to increase the nutritional quality. Foods made from refined grains that meet at least **one** of the following criteria are considered creditable:

   1. The food is labeled as "enriched." For example, long grain rice that is enriched will have the product name "enriched long grain rice."
   2. An enriched grain is listed as the first ingredient on the food's ingredient list or second after water. The ingredient list will usually state "enriched flour" or "enriched wheat flour," or there is a sub-listing of nutrients used to enrich the flour, for example, "yellow corn flour {iron, folic acid, riboflavin, niacin, and thiamine}."
   3. For breakfast cereals, the product is labeled as "fortified" or the ingredient list names the vitamins and minerals that have been added to the product. If a breakfast cereal is fortified, it does not need to be enriched. For example, the ingredient list of a fortified breakfast cereal may read, "Ingredients: Wheat flour, sugar, contains 2% or less of salt, baking soda, caramel color, BHT for freshness. Vitamins and Minerals: Vitamin C (sodium ascorbate, ascorbic acid), niacin, vitamin B6 (pyridoxine hydrochloride), reduced iron, zinc oxide, folic acid, vitamin B2 (riboflavin), vitamin B1 (thiamin hydrochloride), vitamin A palmitate, vitamin D, vitamin B12"

      NOTE: The ingredient list of a non-fortified cereal would not name any added vitamins and minerals. For example, the ingredient list of a non-fortified breakfast

cereal may read, "Ingredients: rice flour, corn flour, evaporated cane juice, pomegranate juice concentrate, sea salt." This particular cereal would not be considered a creditable grain because it is not made from whole or enriched grains and is not fortified.

Beginning July 1, 2019, the Child Nutrition Labeling Program will also include enriched grain crediting information on new product labels for use by Program operators.

Consistent with existing whole grain-rich guidance for schools, any non-creditable grains in products or recipes used to meet the enriched grain requirements are limited to an insignificant amount, which is defined as less than 0.25 ounce equivalency. For products from Exhibit A, Groups A - G, this means that there must be *fewer* than 4 grams of non-creditable grain per portion. For products from Group H, this means that there must be *fewer* than 7 grams of non-creditable grain per portion. FNS is updating our grain guidance and resources to promote flexibility.

5. **What are the requirements for unflavored milk in the Child Nutrition Programs?**

   CNP operators participating in NSLP (including NSLP afterschool snacks, the preschool meal pattern, and Smart Snacks in School), SBP (including the preschool meal pattern), CACFP, and SMP may offer children age 2 and older and adult
   participants whole, reduced-fat, low-fat, and fat-free fluid milk to meet fluid milk requirements in these programs. The updated fluid milk requirements for each age group are summarized below:
   • Fluid milk served to children age 1 must be unflavored whole milk;
   • Fluid milk served to children ages 2 through 5 may be unflavored whole, reduced-fat, low-fat, or fat-free milk; and
   • Fluid milk served to children age 6 and older and adult participants may be unflavored or flavored, whole, reduced-fat, low-fat, or fat-free milk.

To ensure that milk variety is not limited to flavored milk, beginning SY 2019-2020 schools in the NSLP and SBP must offer at least one type of unflavored milk (fat-free or low-fat) at each meal service.

6. **Is the flavored, low-fat milk flexibility available to CACFP operators other than school sites?**

   The current flexibility and expanded options are not restricted to school locations. This flexibility is available to all CACFP child care facilities that serve meals to children ages 6 and older, and adult day care centers. Flavored milk may only be offered to CACFP participants ages 6 and older.

7. **Is flavored low-fat milk allowable in the NSLP afterschool snack service, and does the requirement to offer unflavored milk apply?**

   The NSLP afterschool snack service must include two full servings of any of the following: fluid milk; meat or meat alternate; vegetable or fruit, or full-strength vegetable or fruit juice; whole-grain or enriched bread. Flavored, low-fat milk is allowable in the NSLP afterschool snack service. Because the service of afterschool snacks should be simple, the requirement to

offer a variety of milk types, including unflavored milk, does not apply in the NSLP afterschool snack service. Juice must not be served when fluid milk is served as the only other component.

8. **Do these flexibilities apply to Smart Snacks in Schools (SSIS)?**

   The only change that affects SSIS is the flexibility to sell flavored, low-fat milk as a competitive food on the school campus, during the school day. This final rule does not change the SSIS requirements regarding grains or sodium (7 CFR 210.11). The SSIS standard is a nutrition requirement for an individual food item. In contrast, NSLP and SBP have daily and weekly requirements.

9. **May schools offer water in place of milk?**

   No. Fluid milk is a required component of a reimbursable meal. Program operators must not promote or offer water, juice, or any other beverage as an alternative selection to fluid milk in a reimbursable meal throughout the food service area. Schools must not directly or indirectly restrict the sale or marketing of fluid milk (7 CFR 210.10(d)(4)).

   Although water is not a required part of a reimbursable meal, potable water must be available to students at no charge during meals, in the food service area or on the service line, separate from fluid milk (to prevent confusion).

   Schools must use signage to help students select a reimbursable meal. See memorandum SP 28-2011 *Revised Child Nutrition Reauthorization 2010: Water Availability During National School Lunch Program Meal Service* (July 12, 2011, available at: https://www.fns .usda.gov/water-availability- during-nslp-meal-service) and memorandum SP 39-2019 *Clarification on the Milk and Water Requirements in the School Meal Programs* (September 19, 2019, available at: https://www.fns.usda.gov/resource/clarification-milk-and-water-requirements-school-meal-program).

10. **May State agencies establish State standards that are stricter than the Federal requirements for milk, whole grains, and sodium in the NSLP and SBP?**

    The flexibilities established by this rule will give schools greater ability to incorporate local preferences into menu planning. Accordingly, USDA expects these flexibilities will help schools run their food service operations more efficiently and effectively while meeting the needs of their communities.

    The regulations at 7 CFR 210.19(e) allow State agencies discretion to set additional requirements that are not inconsistent with the minimum nutrition standards for school meals. However, a State agency must reimburse school food authorities for meals and afterschool snacks served in accordance with the Federal requirements. A State agency cannot withhold Federal Program funds or take back reimbursement for meals that meet the minimum Federal requirements. When considering matters of local control, USDA encourages States to establish standards incorporating the flexibilities that work best for their communities and schools.

11. **How do lawsuits impact Program requirements and flexibilities?**

    Schools are obligated to comply with Program requirements, including those in all final

regulations. Generally, pending litigation does not affect Program requirements and flexibilities. Once a lawsuit has been resolved, any resulting changes to Program requirements and flexibilities would be announced through rulemaking and/or published guidance.

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[1] The Summer Food Service Program (SFSP) currently allows flavored, low-fat milk with summer meals so this flexibility makes no change to the milk service in the SFSP.

[2] SP 32-2017, May 22, 2017, *School Meal Flexibilities for School Year 2017-2018*.