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SUBJECT: Child Nutrition Program Nationwide Waivers: Questions and
Answers¹

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

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Summary:	(1)This memorandum provides clarification on questions related to the Nationwide waivers issued by FNS in response to the novel coronavirus (COVID-19) public health emergency. (2) This memorandum applies to Child Nutrition Program operators. (3) This document relates to Nationwide waivers issued 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 way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

¹ Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this memo as not major, as defined by 5 U.S.C. § 804(2).

Pursuant to the Families First Coronavirus Response Act of 2020 (P.L. 116-127), and based on the exceptional circumstances of the novel coronavirus (COVID-19) public health emergency, the Food and Nutrition Service (FNS) issued three Nationwide Waivers on March 20, 2020, to support access to nutritious meals while minimizing potential exposure to the novel coronavirus. The following waivers apply automatically to all States that elect to use them, without further application:

- [Nationwide Waiver to Allow Meal Service Time Flexibility in the Child Nutrition Programs](#)
- [Nationwide Waiver to Allow Non-Congregate Feeding in the Child Nutrition Programs](#)
- [Nationwide Waiver of the Activity Requirement in Afterschool Care Child Nutrition Programs](#)

The following questions and answers are meant to address questions State agencies and Program operators may have based on the three Nationwide Waivers. The waivers are available on the FNS Response to COVID—19 website:
<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.

Original Signed

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Questions and Answers

General Questions

1. What Child Nutrition Programs do the Nationwide Waivers cover?

State agencies may apply the Nationwide Waivers to the following Child Nutrition Programs, unless otherwise noted:

- National School Lunch Program (NSLP), including the Seamless Summer Option (SSO) and the Afterschool Snack Service;
- School Breakfast Program (SBP);
- Child and Adult Care Food Program (CACFP) – all components (see Question 15)
- Summer Food Service Program (SFSP).

2. The Nationwide Waivers are effective through June 30, 2020, or until the federally declared public health emergency ends, whichever is first. Will FNS extend the waivers if the public health emergency continues?

Congress gave the Secretary discretion to establish Nationwide Waivers through September 30, 2020. If the public health emergency continues beyond June 30, 2020, FNS may extend the waivers.

3. The Nationwide Waivers require State agencies to inform the FNS Regional Office if the State agency intends to participate. How is this accomplished?

State agencies that elect to participate in any or all of the Nationwide Waivers 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 waivers. State agencies that are already participating in a similar, individually approved waiver still must inform their Regional Office if they elect to participate in the Nationwide Waiver. Upon election, the terms of the Nationwide Waiver will be in effect, rather than the previously approved individual waiver.

4. Do State agencies have the option to not participate under the Nationwide Waivers?

Yes. State agencies may choose whether or not to participate under the Nationwide Waivers. However, we strongly encourage participation to ease administrative and operational burdens for State agencies and Program operators during this time.

5. The Nationwide Waivers require State agencies to submit a report about the impact of each waiver. What is the due date for these reports?

As required by Congress, the due date for the reports will be not later than one year after the date the State notified the Regional Office it was electing the waiver. FNS encourages State agencies to proactively work with local Program operators to gather the information necessary to complete the reports. For example, State agencies may consider asking local Program operators for periodic, voluntary updates regarding the impact of the waiver. Additional information will be provided on the reporting requirements at a later date.

6. What records should State agencies and local Program operators maintain for the Nationwide Waivers?

State agencies and local Program operators are required to maintain records to document compliance with Program requirements. Any State agencies and local Program operators participating under the waivers should maintain documentation of their participation for future reviews and Management Evaluations. Documentation may include copies of the FNS issued waivers, or, for local Program operators, a letter provided by the State agency regarding the waivers. In general, otherwise required Program records must be maintained for three years. No additional claim information is required to be maintained.

7. Are Program operators required to submit a waiver request to their State agency to use one of these Nationwide Waivers?

No, but Program operators should notify their State agencies if they elect to use the waiver. These Nationwide Waivers are automatically available to Program operators in States that elect to use them, without further application. However, the waivers include a data element requiring each State agency electing to use them to submit a report to the Secretary. The report must be submitted no later than one year after the State received the waiver. The report must include a summary of the use of the waivers and a description of how the waivers improved services to Program participants. Therefore, it is recommended that State agencies require notification from Program operators that they are electing to use the waiver and begin tracking use of the waivers from the effective date, in order to ease the reporting requirement.

Waiver #1: Meal Service Times Flexibility

8. What is the maximum number of Program meals and snacks that can be claimed for Federal reimbursement each day?

The maximum number of meals or snacks that can be claimed for Federal reimbursement, per child or adult participant, per day, varies by Program:

- NSLP: Up to one lunch per child per day;
- NSLP Afterschool Snack Service: Up to one snack per child per day;
- NSLP Seamless Summer Option: Up to two meals, or one meal and one snack, per child, per day, in any combination except lunch and supper;
- SBP: Up to one breakfast per child per day;
- CACFP Child and Adult Care: Up to two meals and one snack, or two snacks and one meal, per child or adult participant per day;
- CACFP At-Risk Afterschool Meals Component: Up to one meal and one snack, per child per day;
- CACFP Emergency Shelters: Up to three meals, per resident 18 years and younger, per day; or
- SFSP: Up to two meals, or one meal and one snack, per child, per day, in any combination except lunch and supper.

Some Program operators participate in multiple Programs. For example, under typical circumstances, in one day, a Program operator may serve a child breakfast through SBP, lunch through NSLP, and supper and snack through CACFP At-Risk. Under the waivers, a child may still participate in more than one program, but in no circumstances shall a child receive more than the number of meals allowed in each Program for which they are eligible. Operators must also ensure children do not receive duplicates of the same meal.

9. Can children, or in CACFP, adult participants, pick up multiple meals at the same time?

Yes. Under the Meal Service Times Flexibility waiver, Program operators are not required to serve meals at a certain time, or to allow a certain amount of time to elapse between meals. Therefore, Program operators participating under this waiver and the Non-Congregate Feeding waiver may allow children or adult participants to pick up multiple meals at one time. The maximum number of meals that may be served and claimed for Federal reimbursement per child or adult participant per day remains the same (see Question 8). However, the State agency may approve a distribution approach that allows children or adult participants to pick up meals for more than one day at a time. Program operators are also required to maintain accurate meal counts by Program and submit claims by Program. State agencies should consider the expected duration of the public health emergency and the Program operator's ability to execute such an approach safely and effectively, including meeting State or local food safety requirements, prior to approval.

10. What does the waiver allow specific to suspension of CACFP meal service times during the public health emergency?

The waiver allows State agencies to suspend the meal service times established by the Program operator, particularly if the requirements create a hardship for CACFP participants. The waiver is intended to provide maximum flexibility to help State

agencies support the unique needs of local Program operators during the public health emergency.

Waiver #2: Non-Congregate Feeding

11. Under the Non-Congregate waiver, who can be served at sites providing meals?

For open SFSP and SSO sites (must meet area eligibility criteria, i.e., be located in an area where at least 50 percent of the children are from low-income families) and CACFP at-risk sites, any child age 18 years and younger at the start of the school year, as well as persons over 18 with disabilities as defined in the regulations, can be served meals and snacks, all of which can be claimed at the free rate. For schools operating NSLP and SBP; closed enrolled SFSP and SSO sites (located in areas with less than 50 percent of children from low-income families, and at least 50 percent of enrolled children must be free/reduced price eligible); SFSP or SSO camps; CACFP child or adult care centers, outside-school-hours centers, and family day care homes, only meals and snacks served to enrolled children or adult participants may be claimed, at the appropriate rate. In CACFP emergency shelters, meals served to residents 18 years and younger may be claimed at the free rate. See Question 8 for the number and type of meals or snacks that can be claimed for reimbursement under each Program.

12. Can children, or in CACFP, adult participants, pick up multiple meals at the same time?

Yes. Children or adult participants can pick up multiple meals at the same time when the Non-Congregate Feeding waiver and the Meal Service Times Flexibility waiver are in effect. See Question 10.

13. May Program operators provide non-congregate meals at different locations that were not previously approved by the State agency?

No. The State agency must approve all locations for distribution of meals.

14. Most State agencies received a statewide waiver to allow non-congregate feeding in the SFSP and SSO before FNS issued the Nationwide Waivers. Are State agencies required to submit two reports to FNS on the Non-Congregate Feeding waiver?

No. State agencies that elect the Nationwide Waiver would be subject to the reporting requirements in that waiver and would not have to complete the reporting elements required under the original, individual State waiver. More information about reporting requirements under the Nationwide Waivers will be provided at a later date.

15. Which components under CACFP does the Non-Congregate waiver apply to?

The waiver applies to all CACFP components—child care centers, adult day care centers, outside-school-hours care centers, at-risk afterschool care programs, family day care homes, and emergency shelters.

16. Can a child care center that operates CACFP and is closed due to COVID-19 provide non-congregate meals to enrolled children?

The waiver provides CACFP institutions and facilities the ability to provide meals through a variety of methods, including pick-up schedules with designated times for distribution, as long as these are previously approved by the State agency. The maximum number of meals that may be offered to each child remains the same as under regular CACFP operations. The State agency may approve a distribution or pick up approach that includes meals for multiple days, up to one week at a time. When approving these requests, the State agency should consider the expected duration of the closure, and the Program operator's capacity to execute such an approach effectively, including its ability to meet State or local food safety requirements.

17. How would non-congregate feeding work in CACFP emergency shelters?

Children 18 years and younger residing in emergency shelters would not have to consume their meals in a group setting. They would be allowed to take meals off-site or to their individual rooms.

18. Under the current nationwide waivers allowing non-congregate feeding and no meal time restrictions due to COVID-19, may Child Nutrition Program operators provide food items in bulk, either through pick up or home delivery, without additional waivers?

Under current statutory and regulatory authority and in conjunction with recent COVID-19 waivers allowing non-congregate feeding and no meal time restrictions, when providing multiple meals at one time, Program operators may provide bulk items as long as individual meals are easily identifiable as a reimbursable meal. When implementing such a delivery mechanism, Program operators:

- Must include the required food components in the proper minimum amounts for each reimbursable meal being claimed;
- Must ensure that food items are clearly identifiable as making up reimbursable meals;
- Are strongly encouraged to provide menus with directions indicating which items are to be used for each meal and the portion sizes;

- Should consider whether households have access to refrigeration, stoves, microwaves, etc., when providing food that requires refrigeration or further preparation, such as reheating; and
- Should ensure that only minimal preparation is required and that food is not provided as ingredients for recipes that require chopping, mixing, baking, etc.

Additionally, pursuant to 7 CFR 226.6(i)(11), State agencies may approve requested flexibilities for unitized meals prepared by food service management companies or delivered to CACFP outside-school-hours care centers.