



Food and Nutrition Service

Braddock Metro Center

1320 Braddock Place Alexandria VA 22314

DATE: May 19, 2020

MEMO CODE: SP 18-2020, SFSP 10-2020

SUBJECT: Summer Food Service Program and National School Lunch Program Seamless Summer Option Nationwide Waivers - Questions and Answers¹

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Summer Food Service Program and National School Lunch Program Seamless Summer Option Nationwide Waivers - Questions and Answers
Document ID:	
Z-RIN:	
Date of Issuance:	May 19, 2020
Replaces:	N/A
Summary:	(1)This memorandum provides clarification on questions related to the COVID-19: Child Nutrition Responses #14-17, Nationwide Waivers for the Summer Food Service Program and National School Lunch Program Seamless Summer Option. (2) This memorandum applies to State agencies administering, and local organizations operating, the Summer Food Service Program and National School Lunch Program Seamless Summer Option. (3) This document relates to requirements under section 13 of the Richard B. Russell National School Lunch Act at 42 U.S.C. 1761(a)(1)(A)(i)(III) and 42 U.S.C. 1761(f)(7), Summer Food Service Program regulations at 7 CFR 225.15(d), 7 CFR 225.15(f), 7 CFR 225.16(c)1 and (c)(2), and 7 CFR 225.16(f)(1)(ii), and waivers pursuant to the Families First Coronavirus Response Act of 2020 (P.L. 116-127).

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

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.
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This memorandum includes questions and answers intended to provide clarification to State agencies and Program operators on the nationwide waivers for the Summer Food Service Program and National School Lunch Program Seamless Summer Option (*COVID-19: Child Nutrition Responses #14-17*).

Pursuant to the Families First Coronavirus Response Act of 2020 (P.L. 116-127), and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) has issued several Nationwide Waivers and has exercised existing statutory and regulatory authorities to support access to nutritious meals while minimizing potential exposure to the novel coronavirus. Additional information on the FNS Response to COVID—19 is available at <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.

Sincerely,



Angela M. Kline
Director
Policy and Program Development Division

Questions and Answers

General Questions

1. FNS issued four nationwide waivers for the Summer Food Service Program (SFSP) and National School Lunch Program (NSLP) Seamless Summer Option (SSO) on April 21, 2020. Which waivers apply to SFSP and which waivers apply to SSO?

- Closed Enrolled Site Eligibility (COVID-19 Child Nutrition Response #14) – SFSP and SSO
<https://www.fns.usda.gov/cn/nationwide-waiver-allow-area-eligibility-closed-enrolled-sites>
- First Week Site Visits (COVID-19 Child Nutrition Response #15) – SFSP only
<https://www.fns.usda.gov/cn/nationwide-waiver-sfsp-first-week-site-visits>
- Offer Versus Serve (COVID-19 Child Nutrition Response #16) – SFSP only
<https://www.fns.usda.gov/cn/nationwide-waiver-allow-offer-vs-serve>
- Meal Service Time Restrictions (COVID-19 Child Nutrition Response #17) – SFSP and SSO
<https://www.fns.usda.gov/cn/nationwide-waiver-meal-service-time-restrictions-sfsp-nslp-sso>

2. Why would a State agency elect to use a nationwide waiver rather than request an individual waiver?

The nationwide waivers are easy to adopt, as they are effective immediately without further application by the State agency. The State agency simply needs to notify FNS that it elects to use the waiver. Additionally, the waivers are valid through September 30, 2020, which is helpful for State agencies that have not yet requested or received waivers for summer 2020.

3. What are the options for a State agency that has already received approval of an individual waiver for summer 2020?

State agencies may choose to utilize either their approved individual waivers or the nationwide waivers.

4. How do the reporting requirements work for State agencies? Are State agencies that use individual and nationwide waivers required to fulfill the reporting requirements for both types of waivers?

State agencies only have to fulfill the reporting requirements for the waiver they elect to utilize for summer 2020. State agencies *do not* have to fulfill the reporting requirements for both their individual waivers and the nationwide waivers.

- 5. What options are available to SFSP sponsors in States that do not elect to be subject to the nationwide or individual waivers? Are SFSP sponsors able to apply for a sponsor-level SFSP waiver?**

Yes. In States that do not participate in either the nationwide or individual waivers, sponsors may apply for sponsor-level waivers through their State agency. They would need to follow the process as outlined in SFSP 05-2018: *Child Nutrition Program Waiver Request Guidance and Protocol- Revised*, <https://www.fns.usda.gov/cn/child-nutrition-program-waiver-request-guidance-and-protocol-revised>.

Closed Enrolled Site Eligibility—COVID-19 Child Nutrition Response #14

- 6. May camps use the closed enrolled nationwide waiver to establish site eligibility?**

No. This waiver does not apply to sites that meet the regulatory definition of a camp and receive reimbursement for three meals a day. SFSP regulations at 7 CFR 225.2 define camps as residential summer camps and nonresidential day camps that offer a regularly scheduled food service as part of an organized program for enrolled children. Nonresidential camp sites must offer a continuous schedule of organized cultural or recreational programs for enrolled children between meal services.

- 7. Under the closed enrolled site eligibility waiver, what sources of data may the State agency use to establish area eligibility for closed enrolled sites?**

State agencies should use data sources outlined in SFSP 03-2017: *Area Eligibility in Child Nutrition Programs*, <https://www.fns.usda.gov/cn/area-eligibility-child-nutrition-programs>, to verify that closed enrolled sites are located in an eligible area. Data sources include school, census, or other approved sources of data that indicate that 50 percent of the children in the site's area are eligible for free or reduced-price school meals.

- 8. What if a State agency has a COVID-19 area eligibility waiver for SFSP open sites? What sources of data can the State agency use to establish area eligibility for closed enrolled sites?**

If a State agency elects to participate in the SFSP closed enrolled nationwide waiver *and* has an approved COVID-19 area eligibility waiver for SFSP open sites, the State may use any measures that are consistent with its area eligibility plan for open sites to establish area eligibility for closed enrolled sites. Under these circumstances, the State agency does not have to use data sources outlined in SFSP 03-2017: *Area Eligibility in Child Nutrition Programs* to verify that closed enrolled sites are located in an eligible area.

First Week Site Visits—COVID-19 Child Nutrition Response #15

9. **Does the nationwide waiver for first week site visits allow sponsors to also forgo the full review of food service operations at each site within the first four weeks of operations?**

No. This waiver only applies to first week site visits. SFSP sponsors are still required to comply with regulatory requirements at 7 CFR 225.15(d)(3). For complete information on monitoring flexibilities for sponsoring organizations, please see *COVID-19 Child Nutrition Response #10: Nationwide Waiver of Onsite Monitoring Requirements for Sponsoring Organizations in the Summer Food Service Program*, <https://www.fns.usda.gov/sfsp/nationwide-waiver-onsite-monitoring-requirements-sponsoring-organizations-summer-food>.

10. **Does the first week site visit waiver apply to SSO?**

No. The requirements for first week site visits at 7 CFR 225.15(d)(2) do not apply to SSO sponsors.

11. **Does the first week site visits waiver apply to new sponsors and sites?**

No. This waiver only applies to sites in good standing that operated successfully in the previous year and sponsors that successfully participated in NSLP or the Child and Adult Care Food Program and are in good standing. Sponsors must continue to observe food service operations and provide technical assistance to all sites that do not fall under this waiver during the first week. However, desk audits and other alternatives may be used to conduct these “visits” offsite. For information on alternative methods, please see SP 11-2020, CACFP 06-2020, SFSP 05-2020, *Questions and Answers related to the Child Nutrition Program Monitoring and Reporting Nationwide Waivers*, <https://www.fns.usda.gov/cn/covid-19/qas-monitoring-reporting-nationwide>.

Offer Versus Serve (OVS)—COVID-19 Child Nutrition Response #16

12. **If a site drops a meal component that may be difficult to include under current meal service conditions, is the meal still reimbursable under OVS?**

No. Under OVS, all required meal components must be offered. OVS is not intended as a way to circumvent meal pattern requirements or eliminate specific components. However, if a site is unable to obtain a particular food component, FNS has issued other nationwide flexibilities in response to the COVID-19 pandemic, which may be used until expiration, including the flexibility that State agencies may choose to waive certain nutrition requirements in cases where food shortages or supply chain disruptions are documented. See *COVID-19: Child Nutrition Response #4, Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs*, <https://www.fns.usda.gov/cn/covid-19-meal-pattern-flexibility-waiver>, for more information.

13. OVS is designed for congregate meal situations. How should OVS be adapted for non-congregate settings?

OVS is, indeed, designed for congregate meal service. When using OVS in a non-congregate setting, sponsors should consider the unique service situations of each site, as well as each site's ability to follow appropriate safety measures. All required meal components or food items must be offered, and all participants must have the opportunity to select a reimbursable meal. FNS encourages sponsors that wish to use OVS to think creatively about how to implement this flexibility while ensuring that all meal service parameters are met.

Meal Service Times—COVID-19 Child Nutrition Response #17

14. May sponsors and sites use the meal service times nationwide waiver to continue offering multi-meal bundles instead of individual meals?

Yes. Sponsors and sites may use this waiver for Summer 2020, in conjunction with the nationwide congregate feeding waiver, *COVID-19: Child Nutrition Response #2, Nationwide Waiver to Allow Non-congregate Feeding in the Child Nutrition Programs*, <https://www.fns.usda.gov/cn/covid-19/non-congregate-feeding-nationwide-waiver>, until its expiration date, to provide multiple meals through one non-congregate meal service. For example, a site may serve all allowable meals for that day or for multiple days at one meal service. However, the requirements at 7 CFR 225.6(c)(2)(i)(B) and (c)(3)(i)(A) to establish meal service times remain in effect. These requirements may be met through State agency approved pick-up schedules or delivery plans with designated times for distribution.