

Flexibility Guidance for COVID-19 Supply Chain Disruptions

On October 28, 2021, FNS/Child Nutrition Programs issued the memorandum [Child and Adult Care Food Program \(CACFP\) Flexibilities During Covid-19 Supply Chain Disruptions](#). This memorandum provided guidance on current meal pattern flexibilities in the CACFP and opportunities for State agencies and sponsoring organizations to use discretion while monitoring meal pattern compliance during the COVID-19 pandemic.

The below DECAL guidance is designed to aid DECAL staff and sponsoring organizations on the application of these existing flexibilities for those Program operators who may encounter COVID-19 supply chain disruptions and may as a result be unable to meet meal pattern requirements.

- 1. Emergency Procurement Flexibilities** - 2 CFR 200.320 allows for the noncompetitive procurement method to be utilized when a public exigency or emergency prevents competitive procurement.
 - a. Program operators may be granted the flexibility of conducting noncompetitive procurement on an as needed and requested basis. Operators should reach out to LaMonika Jones at LaMonika.Jones@decalf.ga.gov to request to use and be approved for this flexibility.
 - b. Use of this flexibility is only available during times in which supply chain disruptions exist.

Note: Organizations are encouraged to monitor and evaluate contracts and/or agreements as well as assess current and potential meal sites. Doing so may help determine if a supply chain disruption exists, a new vendor should be used or if proper procurement using alternative procurement methods different from previous years should be executed.

- 2. Milk Flexibilities** - 7 CFR 226.20(e) allows State agencies to approve meal services without milk during a temporary emergency period and to approve meal services without milk if Program operators are unable to obtain milk. Please also see [CACFP Guidance on the Milk Flexibility for COVID-19 Supply Chain Disruptions](#).
 - a. Prior to applying for the milk flexibility, institutions must make attempts to purchase milk and the required milk types from more than one vendor. Operators must maintain documentation supporting these attempts and make that documentation available to DECAL or the sponsoring organization when requested. This documentation can include but is not limited to email correspondence between institutions and multiple vendors, multiple invoices from different food distributors showing milk/milk types ordered but not delivered, and/or notations on receipts advising of supply chain disruptions and the purchase of different milk types than required.
 - b. If still unable to obtain milk or the required milk type, operators may apply for milk flexibilities via the USDA Waivers module in ATLAS. The milk flexibility is intended only for operators that are unable to obtain milk or the required milk types due to a disruption in supply as a result of the COVID-19 pandemic.
 - c. When approved for the milk flexibility, operators should make every effort to purchase any milk type available (e.g., whole milk, 2% milk, etc.) rather than serving no milk at all.

- d. If approved, the milk flexibility will be approved for up to 90 days. After 90 days, the operator must adhere to the milk requirements.
 - e. It is expected that once milk is available for purchase, operators will obtain the correct amount and type of milk for their CACFP meals, even if operators are within the milk flexibility's 90-day window.
 - f. If after 90 days, the operator is still unable to obtain milk due to COVID-19 supply chain disruptions, the operator must reapply and be reapproved for the milk flexibility to continue to serve meals without milk or to serve milk with an alternate milk type than required.
 - i. If during the 2nd 90-day milk flexibility approval and any subsequent approval, the institution is unable to obtain any milk, the operator must ensure that an equivalent amount of canned, whole dry or fat-free dry milk is used in the preparation of the CACFP meal components served. Operators must document the amount of canned, whole dry or fat-free dry milk that is used in preparation of the meals to support that equivalent amounts to milk were used.
3. [COVID-19: Child Nutrition Response #91 - Nationwide Waiver to Allow Specific Meal Pattern Flexibility in the Child and Adult Care Food Program for School Year 2021-2022](#)
- a. Waiver allows operators to serve meals that do not meet the following specified meal pattern requirements:
 - i. The whole grain-rich requirement
 - ii. The crediting of grains by ounce equivalents requirement
 - iii. The requirement that low-fat milk must be unflavored
 - b. Operators must seek approval for this waiver through the USDA Waivers module in ATLAS.
4. **Flexibilities in issuing fiscal actions for violations of the meal pattern per 7 CFR 226.14(b)**
- a. Per USDA Memo - *Child and Adult Care Food Program (CACFP) Flexibilities During Covid-19 Supply Chain Disruptions*, if CACFP operators are making a good faith effort to comply with meal pattern requirements but cannot due to COVID-19 related supply chain disruptions, State agencies and sponsoring organizations should prioritize training and technical assistance in lieu of fiscal action to identify solutions that are specific to CACFP operator's local circumstances.
 - b. State agencies and sponsoring organizations should exercise discretion when determining whether CACFP operators should be found seriously deficient when meals fall short of meeting the meal pattern requirements during Federal fiscal year 2022 due to COVID-19-related supply chain disruptions. This applies to institutions under a State agency and facilities under a sponsoring organization, including day care homes (7 CFR 226.16(l)(2)(iv)).
 - c. State agencies and sponsoring organizations are encouraged to work with institutions and facilities, respectively, who are not meeting the meal pattern requirements to identify solutions on a case-by-case basis and continue to prioritize technical assistance.

- d. State agencies are advised to also prioritize technical assistance when reviewing how sponsoring organizations handled meal pattern deficiencies that resulted from severe food shortages.
- e. **Requirements associated with providing technical assistance and/or training in lieu of fiscal action for meal pattern violations:**
 - i. This flexibility must only be applied during a time of supply chain disruptions and may not be applied for any other reason besides a disruption in the supply chain.
 - ii. Operators must make a good faith effort to ensure all components are served and the meal pattern is met to the greatest extent possible prior to the State agency or sponsoring organization applying this flexibility.
 - iii. Operators must attempt to purchase alternate creditable substitutions when shopping, ask their vendor for alternate creditable substitutions, and/or attempt to purchase from multiple vendors, prior to the State agency or sponsoring organization applying this flexibility.
 - iv. If operators have substituted menu items due to COVID-19 related supply chain disruptions, the reasons for the substitutions and the specifics related to the actual supply disruption must be documented. In addition, posted menus and the Weekly Menu and Food Service Records must be updated to reflect the substitutions.
 - v. CACFP operators that receive vended meals must obtain documentation describing the supply chain disruption that led to the vendor providing meals that did not meet meal pattern requirements.
 - vi. All technical assistance and/or training provided in lieu of adverse actions must be documented and maintained on file by the State agency or sponsoring organization.
- f. ***The following are some scenarios/examples in which State agencies and sponsoring organizations would use their discretion and offer technical assistance and/or training in lieu of adverse action if the meal pattern is not met:***
 - i. Main Street Childcare has a contract with A.B.C. Food Distribution Company to provide all food items for their CACFP meals. Due to supply chain disruptions, A.B.C. Food Distribution Company was unable to supply Main Street Childcare with the variety of bread items the center ordered. The center did not have substitute grain items on hand to serve with their CACFP meals and as a result, the required grain component was not served. The center provided DECAL/sponsoring organization with an invoice/receipt that indicated that the bread items were ordered but were not shipped.
 - *It would be acceptable on the day of the shipment that the center does not serve a grain component. However, it would be expected that the center contact its vendor and request alternate creditable substitutions. The center may also purchase the required grain items from a grocery store or from another vendor to ensure that the component is served in future meals.*

- ii. Ms. Brown, a CACFP daycare home provider, lives in a rural area where there are few options to grocery shop for her CACFP meals. During one of her grocery runs, she discovers there were no eggs available to purchase at the store. Ms. Brown went to the second and only other grocery store in town and learned that they too had no eggs. Ms. Brown purchased a carton of non-creditable liquid egg substitute.
- *It would be acceptable for Ms. Brown to purchase other meat/protein alternatives to meet the meal pattern. If the eggs are used as an ingredient for a menu item, it would be acceptable for Ms. Brown to purchase a carton of non-creditable liquid egg substitute to use/serve instead. However, once eggs are available, it would be expected that Ms. Brown cease the use of the non-creditable liquid egg substitute.*
- iii. Kids Are Cool Childcare uses A.B.C. Food Distribution Company to purchase all of their food items. A.B.C. Food Distribution Company, due to supply chain issues, were late in their delivery of the center's order. Canned vegetables were included in that order, but no canned vegetables or fresh vegetables were available at the center. Staff were unable to run to alternate grocery stores to purchase vegetables as staff were needed to care for children at the center. The center did have enough fresh and canned fruits to serve the children. The center chose to serve two fruits with their lunch meals.
- *It would be acceptable for the center to serve two fruits with their lunch meals on the day the shipment arrived with no canned vegetables. However, it would be expected for the center to contact its vendor and request alternate creditable substitutions. The center may also purchase the required vegetable components from a grocery store or from another vendor to ensure that the component is served in future meals.*