



Food and Nutrition Service

DATE: November 2, 2020

Braddock Metro Center

MEMO CODE: SP 04-2021, CACFP 03-2021, SFSP 03-2021

1320 Braddock Place Alexandria VA 22314

SUBJECT: Questions and Answers Relating to the Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations during School Year 2020-2021 – Q&As #3¹

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

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| Issuing Agency/Office: | FNS/Child Nutrition Programs |
| Title of Document: | Questions and Answers Relating to the Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations during School Year 2020-2021 – Q&As #3 |
| Document ID: | |
| Z-RIN: | |
| Date of Issuance: | November 2, 2020 |
| Replaces: | N/A |
| Summary: | (1) This memorandum provides clarification on additional questions related to the operation of the National School Lunch Program, School Breakfast Program, National School Lunch Seamless Summer Option, Summer Food Service Program, and Child and Adult Care Food Program during school year (SY) 2020-2021. (2) This memorandum applies to State agencies administering, and local organizations operating, the National School Lunch Program, School Breakfast Program, National School Lunch Program Seamless Summer Option, Summer Food Service Program, and Child and Adult Care Food Program in SY 2020-2021. (3) This document relates to 7 CFR Parts 210, 220, 225, and 226. |
| Disclaimer: | The contents of this guidance document does 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. |

This memorandum includes questions and answers intended to provide clarification to State agencies and Program operators as they continue to operate the National School Lunch Program (NSLP), School Breakfast Program (SBP), NSLP Seamless Summer Option (SSO), Summer

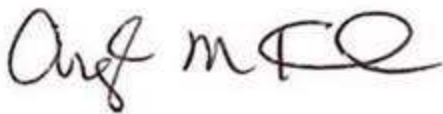
¹ Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this memo as *not major*, as defined by 5 U.S.C. § 804(2).

Food Service Program (SFSP), and Child and Adult Care Food Program (CACFP) during the school year.

Pursuant to the Families First Coronavirus Response Act (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,

A handwritten signature in black ink, appearing to read "Angela M. Kline". The signature is written in a cursive, flowing style.

Angela M. Kline
Director
Policy and Program Development Division

Questions and Answers

SUMMER FOOD SERVICE PROGRAM (SFSP) and SEAMLESS SUMMER OPTION (SSO)

- 1. Can a School Food Authority (SFA) operating an open SFSP/SSO site with non-congregate meal service serve meals to children not enrolled in the school, such as preschoolers?**

Yes. In 7 CFR 225.2, an open site is defined as one that is located in an eligible area and makes meals available to *all* children in the area in which the site is located. The SFA may serve those meals on a first-come, first-serve basis, as described in SFSP 05-2017: *Summer Food Service Program Questions and Answers*, December 1, 2016. If an SFA determines that it can offer meals to enrolled children and non-enrolled children, an open site is the appropriate meal distribution approach. If an SFA only has the capacity to serve enrolled children, a closed enrolled site is the appropriate choice. Please note, open sites may be approved to operate outside eligible areas under COVID-19: Child Nutrition Response #52, *Nationwide Waiver to Extend Area Eligibility Waivers – EXTENSION 2*.

- 2. For SFSP or SSO sites that will be able to serve congregate meals to a limited number of participants under COVID-19 restrictions, will they also be able to serve non-congregate meals to the remainder of participants?**

The nationwide waivers to allow meal service time flexibilities and non-congregate feeding in the Child Nutrition Programs during the coronavirus pandemic do not prohibit the service of congregate meals on site. Under these waivers, SFSP and SSO sites can provide meal service on site to participants in attendance. They can also arrange meal service pick-ups and/or provide meal delivery for participants who cannot remain on site due to group restrictions related to COVID-19. If the program operator or site determines there is a need and it is logistically feasible to implement these options, it can do so for all or part of its participants. Please note that for meal delivery service, follow the guidelines outlined in *Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) Meal Delivery Using Existing Authority*, <https://www.fns.usda.gov/sfsp/covid-19/covid-19-meal-delivery>.

CHILD AND ADULT CARE FOOD PROGRAM (CACFP)

- 3. For CACFP At-risk Afterschool Programs and NSLP Afterschool Snacks, if the educational or enrichment activity is electronic and a child does not have access to the required electronic device, is the activity still considered available to all?**

As Program operators begin to plan enrichment activities for participating children, FNS encourages them to consider the ability of children to access various activities. It may be appropriate to offer some activities that children could participate in without internet access or electronic devices, such as books, activity packets, or coloring sheets. Team

Nutrition offers a variety of games, books, and nutrition education activities for children at: <https://www.fns.usda.gov/tn/digital-nutrition-resources-kids>. Although children are not required to participate in or complete an activity in order to receive an afterschool meal or snack, whatever activities are offered should include options that are accessible to all participating children.

4. May CACFP at-risk centers providing extended care during the day (both school hours and afterschool hours) claim reimbursement for a breakfast and/or lunch served in addition to the one meal and one snack allowed for at-risk?

No. Centers that are only approved to operate under the CACFP at-risk component may not claim reimbursement for meals that exceed their program meal limitation of one meal and one snack per child, per day. CACFP child care centers that operate a separate daytime child care and at-risk afterschool program may be approved to claim reimbursement for up to two meals and one snack, or one meal and two snacks, per child, per day. This applies to children who attend just the daytime child care or attend both programs. For children that attend both programs, the center must ensure duplicate meals are not claimed. CACFP at-risk centers that wish to also operate a licensed child care program should contact their State agency for guidance.

5. Can current tier II family day care homes be moved to tier I with one month's worth of income during COVID-19 due to lower attendance or income, even if this does not reflect the yearly average? Can a tier I home's eligibility to claim their own child be re-determined during this time based on provider's income from the past month?

Yes. A tier II family day care home's eligibility for tier I reimbursement may be re-determined with one month's worth of income, even if this does not reflect the yearly average. A tier I family day care home's ability to claim their own child may also be re-determined based on the provider's income from the past month.

6. As child care centers continue to open, they may have limited schedules and hours of operation. Can centers provide a combination of congregate and non-congregate meals?

Yes. Under the nationwide waivers, child care centers that remain open can provide congregate meal services to children in attendance and arrange for non-congregate meal service pick-up or delivery for the children who are not in attendance. For example, a center that is open only until 2 pm may serve breakfast and lunch to children in a congregate setting, and then send the children home with an afternoon snack. The center must ensure that each child receives not more than one of any type of meal each day. For example, a child may not receive a congregate and a non-congregate lunch on the same day. The center must also ensure that it does not claim more than two meals and one snack per child, per day.

SCHOOL MEAL PROGRAMS

7. What is the verification deadline for SY 2020-2021?

FNS recognizes that, during COVID-19, requiring local educational agencies (LEAs) to complete verification according to standard Program deadlines is burdensome for school officials, and could cause confusion for families with children attending schools operating SFSP/SSO. Under the authority permitted in Section 9(b)(3)(I)(ii) of the Richard B. Russell National School Lunch Act and 7 CFR 245.6a(b)(2)(ii), FNS is extending the verification deadline to February 28, 2021. All LEAs that collected school meal applications during SY 2020-2021 are required to conduct verification. Although schools may have transitioned to SFSP/SSO operations, because school meal applications were used to establish eligibility for P-EBT, verification is still necessary and required. LEAs have discretion to complete verification ahead of this deadline, if they have the administrative capability to do so.

8. May schools that were planning to conduct a Provision 2 base year during SY 2020-2021 and then elected to operate SFSP/SSO calculate their NSLP/SBP claiming percentages and still use SY 2020-2021 as their Provision 2 Base Year?

No. Schools that operated SFSP/SSO for all or a portion of SY 2020-2021 will not have complete base year counting and claiming data needed to establish monthly or annual percentages of meal counts by type. Therefore, generally, schools will be unable to conduct Provision 2 base years during SY 2020-2021. However, where schools were participating in the fourth year of a Provision 2 cycle during SY 2019-2020 and were ineligible for an extension, State agencies should consult with their FNS Regional Office for more guidance on conducting a streamlined Provision 2 base year. Additionally, schools that operated NSLP/SBP for the full 2020-21 school year may conduct a Provision 2 base year. For more information on Provision 2 cycle extensions and streamlined base years, please see Chapter 3 of FNS' [Provision 2 Guidance Manual](https://www.fns.usda.gov/provision-2-guidance-national-school-lunch-and-school-breakfast-programs) at: <https://www.fns.usda.gov/provision-2-guidance-national-school-lunch-and-school-breakfast-programs>.

9. How will State agencies calculate eligibility for severe need breakfast and the extra 2 cent NSLP reimbursements?

Schools operating a breakfast program may be determined eligible for severe need reimbursements if at least 40 percent of lunches served to students at the school in the second preceding school year were served free or at a reduced price (7 CFR 220.9(d)). SFAs may be determined eligible for an extra 2 cent reimbursement if 60 percent or more of the lunches served in the NSLP during the second preceding school year were served free or at a reduced price (7 CFR 210.4(b)(1)(ii)). Therefore, calculations to determine eligibility for severe need breakfast funding and extra 2 cent NSLP reimbursement for SY 2020-2021 will be calculated using data from SY 2018-2019. FNS will issue additional guidance regarding eligibility determinations for future years.

10. Can residential child care institutions (RCCIs) operate SFSP/SSO under the *Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021*?

Yes, SFAs operating RCCIs are permitted to operate the SFSP/SSO under the *Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021* in order to safely serve nutritious meals under COVID. Similarly, RCCIs may benefit from the additional flexibilities provided by SFSP during COVID 19.

RCCIs meet the definition of a school (42 USC §1760(d)(5), 7 CFR 210.2 (School)) and public or nonprofit private SFAs are eligible to sponsor SFSP/SSO (7 CFR 225.14(b)(1)). Additionally, the *Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021* states that SFAs may choose to serve meals through the SFSP or SSO, or may opt to participate under the School Meal Programs. Therefore, the *Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through School Year 2020-2021* may apply to SFAs responsible for meal service at an RCCI.

SFAs providing meal service at RCCIs were not explicitly authorized to operate the SFSP/SSO under the flexibilities offered during school year (SY) 2019-2020, because, due to their residential nature, RCCIs were able to continue to serve children onsite. The flexibility was offered to traditional schools due to disruptions in onsite instruction. During SY 2019-2020, SFAs were able to participate in SFSP/SSO because the school closures were considered an unanticipated school closure. Because RCCIs were not closed, but continued to provide meals to children housed onsite, they were not considered operating under an unanticipated school closure. However, for SY 2020-2021, FNS is extending the summer programs due to COVID-19; this allows all SFAs to consider operating SFSP or SSO.

11. If an LEA is not currently providing meals through the National School Lunch Program is it still required to continue direct certification activities?

Yes. Regardless of operational status, all NSLP-participating LEAs are expected to meet the provisions of 7 CFR 245.6(b)(3), which requires that at minimum all LEAs must conduct direct certification with SNAP at least three times per school year. To assist LEAs, State agencies are strongly encouraged to continue with all scheduled data exchanges and matching activities to ensure access to timely results.

In most States direct certification is a highly automated process in which the exchange of participant data and record matching occurs on a frequent scheduled basis and with little or no human interaction. In these States with available “centralized” student data there is very little effort needed by LEA staff to input State match results into local-level systems and convey free status via direct certification. In other States without readily available “centralized” student data or for many non-public LEAs, LEAs initiate a match process by uploading student rosters into a State user-interface and are returned results. In either

situation it would be expected that these activities have been occurring with little or no disruptions.

With this said, many States do provide LEAs with lists of partial matches for review and it is understood that extended closures may delay the ability for LEAs to adjudicate these records. FNS encourages State agencies to assist LEAs when possible to provide flexibility in any requirements associated with partial matches.