



Food and  
Nutrition  
Service

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DATE: August 20, 2020

CODE: COVID-19: Child Nutrition Response #44

SUBJECT: Nationwide Waiver to Allow Non-congregate Feeding in the Summer Food Service Program – EXTENSION 3<sup>1</sup>

TO: Regional Directors  
Special Nutrition Programs  
All Regions

State Directors  
Child Nutrition Programs  
All States

<b>Issuing Agency/Office:</b>	FNS/Child Nutrition Programs
<b>Title of Document:</b>	Nationwide Waiver to Allow Non-congregate Feeding in the Summer Food Service Program – EXTENSION 3
<b>Document ID:</b>	
<b>Z-RIN:</b>	
<b>Date of Issuance:</b>	August 20, 2020
<b>Replaces:</b>	N/A
<b>Summary:</b>	(1) Under this waiver, Summer Food Service Program operators may provide non-congregate meals during COVID-19-related operations. This waiver extends the nationwide waiver to allow non-congregate feeding in the Summer Food Service Program granted on May 14, 2020 that expires on August 31, 2020. (2) This waiver applies to State agencies administering, and local organizations operating the Summer Food Service Program. (3) This document relates to 42 U.S.C. 1761(a)(1)(D) and 7 CFR 225.6(e)(15).
<b>Disclaimer:</b>	<b>The contents of this guidance document have the force and effect of law as authorized by the Families First Coronavirus Response Act (the Act) (P.L. 116-127).</b>

Pursuant to the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127) and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is extending a nationwide waiver to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19). This waiver extends the Summer Food Service Program (SFSP) *Nationwide Waiver to Allow Non-congregate Feeding in Child Nutrition Programs- EXTENSION*—granted on May 14, which expires on August 31, 2020— through September 30, 2020, or for the

<sup>1</sup> 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).

duration of summer operations, whichever is earlier. The [Nationwide Waiver to Allow Non-congregate Feeding in Child Nutrition Programs – EXTENSION 2](#), granted on June 25, 2020, provided extensions to all other child nutrition programs through school year 2020-2021.

Section 2202(a) of the FFCRA permits the Secretary of Agriculture to establish a waiver for all States for the purposes of providing meals under the Child Nutrition Programs, with appropriate safety measures, as determined by the Secretary.

Under the Richard B. Russell National School Lunch Act at 42 U.S.C. 1761(a)(1)(D) and Program regulations at 7 CFR 225.6(e)(15), Summer Food Service Program meals must be served in a congregate setting and must be consumed by participants on site. However, FNS recognizes that in this public health emergency, waiving the congregate meal requirements is vital to ensure appropriate safety measures for the purpose of providing meals and meal supplements.

Therefore, pursuant to the FFCRA authority cited above, FNS waives, for all States, the requirement at 42 U.S.C. 1761(a)(1)(D) and 7 CFR 225.6(e)(15) to serve meals through the Summer Food Service Program in a congregate setting. This waiver is effective immediately, and remains in effect through September 30, 2020, or for the duration of summer operations, whichever is earlier. Please note that the National School Lunch Program (NSLP) Seamless Summer Option (SSO) follows the NSLP regulations for congregate feeding. Therefore, EXTENSION 2 also applies to SSO operations for the duration of summer 2020. As a reminder, SFSP and SSO may no longer be operated once schools are open for student instruction, which includes both in-person and virtual learning. Planned full or partial building closures are not considered unanticipated school closures for SY 2020-2021.

Consistent with section 2202(a)(2) of the FFCRA, this waiver applies automatically to all States that elect to use it, without further application. If the State agency elects to implement these flexibilities, it must notify its respective FNS Regional Office, which will acknowledge receipt. State agencies should inform local Program operators of the flexibilities provided by this waiver as quickly as possible, and work in partnership with local operators to provide meals to all participants in a safe and accessible manner. Elections and approvals under the initial waiver will continue under this extension; no further action is needed.

As required by section 2202(d), each State that elects to be subject to this waiver must submit a report to the Secretary not later than 1 year after the date such State received the waiver. The report must include:

- A summary of the use of this waiver by the State agency and local Program operators, and
- A description of whether and how this waiver resulted in improved services to Program participants.

FNS stands ready to provide assistance to areas impacted by the coronavirus and intends to continue supporting access to nutritious meals.

FNS appreciates the exceptional effort of State agencies and local Program operators working to meet the nutritional needs of participants during a challenging time. State agencies should direct questions to the appropriate FNS Regional Office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Angela M. Kline". The signature is written in a cursive style with a large, stylized initial "A" and a prominent flourish at the end.

Angela M. Kline  
Director  
Policy and Program Development Division