



Food and  
Nutrition  
Service

Braddock  
Metro Center

1320  
Braddock  
Place  
Alexandria  
VA 22314

DATE: April 20, 2021

CODE: COVID-19: Child Nutrition Response #87

SUBJECT: Nationwide Waiver to Allow Non-Congregate Meal Service for School Year 2021-2022

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 Meal Service for School Year 2021-2022
<b>Document ID:</b>	
<b>Z-RIN:</b>	
<b>Date of Issuance:</b>	April 20, 2021
<b>Replaces:</b>	N/A
<b>Summary:</b>	(1) Under this waiver, National School Lunch Program, School Breakfast Program, and Child and Adult Care Food Program operators in States that elect to be subject to this waiver may provide non-congregate meals during COVID-19 operations. (2) This waiver applies to State agencies administering, and local organizations operating, the National School Lunch Program, School Breakfast Program, and Child and Adult Care Food Program. These flexibilities also apply to the National School Lunch Program Seamless Summer Option. (3) This document relates to 42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1773(b)(1)(A), and 7 CFR 226.19(b)(6)(iii).
<b>Disclaimer:</b>	<b>The contents of this waiver have the force and effect of law as authorized by the Families First Coronavirus Response Act (the Act) (P.L. 116-127), as extended by the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159), unless otherwise provided.</b>

Pursuant to the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127), as extended by the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159), and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is establishing a nationwide waiver to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19) in school year 2021-2022. This waiver applies to the National School

Lunch Program, School Breakfast Program, and Child and Adult Care Food Program, and FNS is extending this flexibility to the National School Lunch Program Seamless Summer Option.

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 National School Lunch Act, 42 U.S.C. 1753(b)(1)(A), the Child Nutrition Act, 42 U.S.C. 1773(b)(1)(A), and program regulations at 7 CFR 226.19(b)(6)(iii), 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 snacks may be followed during the upcoming school year. For example, while students return to in-person learning, some arrangements may be needed within school buildings to continue to support social distancing during meal times, and to provide options for children and families on days when children are participating in school remotely. Non-congregate feeding flexibilities provide schools and child care operators the opportunity to provide meal pick-up options for students learning virtually, and also facilitate grab-and-go meals for students in school.

Therefore, pursuant to the FFCRA authority cited above, FNS waives, for all States, the requirements at 42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1773(b)(1)(A), and 7 CFR 226.19(b)(6)(iii) to serve meals and snacks through the National School Lunch Program, School Breakfast Program, and Child and Adult Care Food Program in a congregate setting in school year 2021-2022. Any other requirements referenced in these provisions remain in effect. This waiver is effective July 1, 2021, and remains in effect through June 30, 2022. FNS also extends the non-congregate feeding flexibilities to the Seamless Summer Option for the duration of this waiver.

Please note, this waiver is intended to provide needed flexibility to support schools and child care providers in continuing to offer nutritious meals while safely and successfully reopening. While this waiver is available through June 30, 2022, flexibilities under the waiver should be implemented by program operators until such a time when greater levels of congregation in in-school settings is safe and healthy to pursue.

Consistent with Section 2202(a)(2) of the FFCRA, this approval 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 operators of these flexibilities as quickly as possible,<sup>1</sup> and work in partnership with local operators to provide meals to all participants in a safe and accessible manner.

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<sup>1</sup> The burden associated with the requirement to elect Nationwide Waiver participation will be included in an upcoming change request to OMB Control #0584-0654.

Please note, State agencies that have already elected non-congregate feeding flexibilities through September 30, 2021, under *Nationwide Waiver to Allow Non-Congregate Feeding for Summer 2021 Operations – EXTENSION 6*, issued March 9, 2021, may continue to allow local operators to participate under that approval for the duration of Summer 2021. This new approval is applicable to school year operations. State agencies must elect to be subject to the school year 2021-2022 non-congregate feeding flexibilities in order to use them.

As required by Section 2202(d) of the FFCRA, each State that elects to be subject to the non-congregate feeding flexibilities must submit a report to the Secretary not later than 1 year after the date such State elected to receive the flexibilities.<sup>2</sup> In order to use these flexibilities, local operators must be prepared to provide the State agency with any necessary information to complete the reporting requirements. The report must include:

- A summary of the use of the non-congregate feeding flexibilities by the State agency and local program operators, and
- A description of whether and how the non-congregate feeding flexibilities resulted in improved services to program participants.

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.



Angela M. Kline  
Director  
Policy and Program Development Division

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<sup>2</sup> FNS will submit to OMB for approval a revision to OMB Control #0584-0607 to cover the reporting requirements of this waiver under the Paperwork Reduction Act.