
Department of Education

Child Nutrition

To: CACFP Institutions

From: CACFP Staff

Subject: Questions and Answers related to the Child Nutrition Program Monitoring and Reporting Nationwide Waivers¹

Date: 4/13/2020

Hello CACFP participants,

USDA has issued the following memo which applies to your institution. Please read the memo, make changes as needed, and keep the memo in your CACFP files. Portions of the FNS memo that do not apply to CACFP have been omitted for your convenience.

This memorandum provides clarification to the Child Nutrition Program Monitoring Nationwide Waivers #7 through #12 available to all States, SFAs and sponsoring organizations during the novel coronavirus (COVID-19) public health emergency.

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.

Pursuant to the COVID-19 Child Nutrition Response Act (the ACT) (H.R. 6201, Title II) and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) granted a series of Nationwide Waivers to help minimize potential exposure to the novel coronavirus.

This memorandum provides clarification to Nationwide Waivers #7 through #12 available to all States, SFAs and sponsoring organizations providing monitoring flexibilities in Child Nutrition Programs during the novel coronavirus (COVID-19) public health emergency. The Nationwide waivers are available on the FNS Website 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.

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).

Questions and Answers: Child Nutrition Program Monitoring and Reporting Nationwide Waivers:

COVID-19: Child Nutrition Response #7: Nationwide Waiver of Monitoring Requirements for Sponsors in the Child and Adult Care Food Program

COVID-19: Child Nutrition Response #8: Nationwide Waiver of Onsite Monitoring Requirements for State Agencies in the Child and Adult Care Food Program

COVID-19: Child Nutrition Response #9: Nationwide Waiver of Onsite Monitoring Requirements in the School Meals Programs

COVID-19: Child Nutrition Response #10: Nationwide Waiver of Onsite Monitoring Requirements for Sponsoring Organizations in the Summer Food Service Program

COVID-19: Child Nutrition Response #11: Nationwide Waiver of Onsite Monitoring Requirements for State Agencies in the Summer Food Service Program

COVID-19: Child Nutrition Response #12: Nationwide Waiver of 60 Day Reporting Requirements for January and February 2020

April 09, 2020

General Questions

What Child Nutrition Programs do the Nationwide Waivers cover?

Under P.L. 116-127 Secs. 2102, 2202, State agencies may apply the Nationwide Waivers to the following Child Nutrition Programs, unless otherwise noted:

- National School Lunch Program (NSLP), including the Seamless Summer Option (SSO) and the Afterschool Snack Service
- School Breakfast Program (SBP)
- Child and Adult Care Food Program (CACFP) – all components
- Summer Food Service Program (SFSP)

Most Nationwide Waivers are effective through June 30, 2020 unless otherwise specified, or until the federally declared public health emergency ends, whichever is first. Will FNS extend the waivers if the public health emergency continues?

Under P.L. 116-127 Sec. 2202 Congress gave the Secretary discretion to establish Nationwide Waivers through September 30, 2020. FNS is closely monitoring the situation

and, if the public health emergency continues beyond June 30, 2020, FNS may extend the waivers.

The Nationwide Waivers require State agencies to inform the FNS Regional Office if the State agency intends to participate. How is this accomplished?

State agencies that elect to participate in any or all of the Nationwide Waivers must inform their FNS Regional Office in writing. State agencies do not need to inform the Regional Office of each local Program operator that intends to participate under the waivers. State agencies that are already participating in a similar individually approved waiver still must inform their Regional Office if they elect to participate in the Nationwide Waiver. Upon election, the terms of the Nationwide Waiver will be in effect rather than the previously approved individual waiver.

Do State agencies have the option to not participate under the Nationwide Waivers?

Yes. State agencies may choose whether or not to participate under the Nationwide Waivers.

The Nationwide Waivers require State agencies to submit a report about the impact of each waiver. What is the due date for these reports?

As required by P.L. 116-127 Sec. 2202, the due date for the reports will be not later than one year after the date the State received the waiver. FNS encourages State agencies to proactively work with local Program operators to gather the information necessary to complete the reports. For example, State agencies may consider asking local Program operators for periodic, voluntary updates regarding the impact of the waiver. Additional information will be provided on the reporting requirements at a later date.

What records should State agencies and local Program operators maintain for the Nationwide Waivers on Monitoring?

State agencies and local Program operators are required to maintain records to document compliance with Program requirements. Any State agencies and local Program operators participating under the waivers should maintain documentation of their participation for future reviews and Management Evaluations. Documentation may include copies of the FNS issued waivers, or, for local Program operators, a letter provided by the State agency regarding the waivers. In general, otherwise required Program records must be maintained for three years; no additional claim information is required to be maintained.

Are Program operators required to submit a waiver request to their State agency to use one of these Nationwide Waivers on Monitoring?

No. These five Nationwide Waivers are automatically available to Program operators in States that elect to use them, without further application. However, please note that the waivers includes a required data element requiring each State agency electing to use them to submit a report to the Secretary not later than one year after the State notified the Regional

Office it was electing the waiver. Under P.L. 116-127 Sec. 2202, the report must include a summary of the use of the waivers and a description of how the waivers improved services to Program participants. Therefore, it is recommended that State agencies begin tracking the Program operators that use the waivers from the effective date in order to ease the reporting requirement.

Nationwide Waivers for Child and Adult Care Food Program (CACFP) Onsite Monitoring for State Agencies and Sponsoring Organizations

COVID-19: Child Nutrition Response #7: Nationwide Waiver of Monitoring Requirements for Sponsors in the Child and Adult Care Food Program

COVID-19: Child Nutrition Response #8: Nationwide Waiver of Onsite Monitoring Requirements for State Agencies in the Child and Adult Care Food Program

What flexibilities does the Nationwide Waiver make available for State agency monitoring of CACFP institutions?

Per COVID-19: Child Nutrition Response #8: Nationwide Waiver of Onsite Monitoring Requirements for State Agencies in the Child and Adult Care Food Program, State agencies may elect to waive portions of the review for CACFP institutions that have traditionally only occurred onsite. FNS strongly encourages State agencies to review these areas offsite, to the maximum extent practicable.

Is my State agency required to conduct pre-approval visits of new CACFP institutions?

State agencies must review new CACFP institutions to confirm information in the institution's application and to further assess its ability to manage the Program but may elect to conduct pre-approval visits of new CACFP institutions offsite.

Several CACFP institutions in my State are closed until further notice leaving my State agency unable to complete our scheduled review, even as an offsite review. What options does my State agency have?

State agencies may postpone the scheduled review of currently closed CACFP institutions, as long as no longer than three years elapse between reviews. If the closure of a CACFP institution results in a State agency unable to meet the requirement under Section 17 of the National School Lunch Act that State agencies must conduct at least one scheduled institution review at not less than 3-year intervals, a State agency may submit a waiver of this statutory requirement. Additionally, if postponing a review will cause a State agency to fall below the annual 33.3 percent of all institutions requirement at 7 CFR 226.6(m)(6), a State agency may request a waiver of this regulatory requirement. If the institution is required to be

reviewed on a two-year schedule as per §226.6(m)(6)(ii), the State agency would submit a waiver of this regulatory requirement.

What flexibilities does the Nationwide waiver make available for CACFP sponsoring organizations as they conduct reviews required at 226.16(d)(4)(iii)?

Per COVID-19: Child Nutrition Response #7: Nationwide Waiver of Monitoring Requirements for Sponsors in the Child and Adult Care Food Program, CACFP sponsoring organizations may elect the following flexibilities for CACFP sponsor reviews this year:

- CACFP sponsors may conduct **two** reviews of their CACFP facilities.
- Only **one** CACFP facility review is required to be unannounced.
- FNS waives that at least one unannounced review must include observation of a meal service.
- FNS waives that not more than six months may elapse between reviews.
- CACFP sponsoring organizations must still, per CFR 226.16(d)(4)(iii)(C), conduct at least one review during each new facility's first four weeks of Program operations but **this review may be conducted as a desk audit.**

Do traditional CACFP program operators (institutions, sponsoring organizations, and centers) need to maintain daily attendance records?

Through authority granted under the COVID–19 Child Nutrition Response Act (the Act) (H.R. 6201, Title II), FNS waived the requirements to serve CACFP meals in a congregate setting in *COVID–19: Child Nutrition Response #2, Nationwide Waiver to Allow Non-congregate Feeding in the Child Nutrition Programs*, dated March 20, 2020. For States that elect to use the non-congregate waiver authority, CACFP program operators only need to maintain daily attendance records for eligible children attending the center. For those not in daily attendance, State agencies must have a plan for ensuring that Program operators are able to maintain accountability and program integrity. This includes putting in place processes to ensure that meals are distributed only to parents or guardians of eligible children, and that they do not distribute duplicate meals. This could be done by checking off participants picking up meals against enrollment records, using sign-in sheets, or other methods which result in accurate recording of eligible program participants, or their parents, receiving meals. CACFP program operators are still required to maintain daily meal counts and enrollment records under this authority.

Do CACFP at-risk afterschool centers need to maintain daily attendance records?

Through authority granted under the COVID–19 Child Nutrition Response Act (the Act) (H.R. 6201, Title II), FNS waived the requirements to serve CACFP meals in a congregate setting in *COVID–19: Child Nutrition Response #2, Nationwide Waiver to Allow Non-congregate Feeding in the Child Nutrition Programs*. FNS waived the requirements which

require at-risk afterschool care centers to serve afterschool meals and snacks in a structured and supervised environment, with an educational or enrichment activity in *COVID-19: Child Nutrition Response #3, Nationwide Waiver of the Activity Requirement in Afterschool Care Child Nutrition Programs*, both dated March 20, 2020. In States that elect to use these waivers, CACFP at-risk afterschool centers only need to maintain daily attendance records for eligible children attending the center, per 7 CFR 226.17a(o)(1) (at-risk afterschool centers may maintain sign-in sheets or, with State agency approval, other methods which result in accurate recording of daily attendance). Those at-risk programs that do not have children actually in attendance do not need to maintain daily attendance records. However, State agencies must have a plan for ensuring that Program operators are able to maintain accountability and program integrity. This includes putting in place processes to ensure that meals are provided for eligible children, and that they do not distribute duplicate meals. At-risk afterschool centers are still required to maintain daily meal counts under this authority.

Offsite Reviews

The Monitoring Nationwide Waivers ask State agencies and local operators to continue monitoring activities of Program operations offsite to the maximum extent practicable. Which portions of the review could a State agency conduct offsite?

Desk reviews can be conducted by reviewing records that have been mailed, faxed, or delivered to the State agency. For instance, the State agency monitor may evaluate the school's/institution's audit, budget, and training attendance via desk review. Desk reviews may be conducted for paperwork-centric areas, such as free and reduced price meal applications; enrollment rosters; audits; receipts; menus; claims; five-day reconciliation (for all meals, not just one observed); and meal counts vs. attendance.

For portions of the review where direct observation is normally required, what alternatives may States and locals use to complete reviews offsite?

In situations where direct observation normally occurs, such as observation of meal preparation, meal pattern components, verification of attendance, and food safety issues, examples of alternatives include State and local Program operators conducting alternative observation using video or photos and/or pictures of meal preparation and meal service. States may also conduct interviews with staff and Program participants to verify information in photos via telephone or video conference.

Reporting Requirements

COVID-19: Child Nutrition Response #12: Nationwide Waiver for 60-Day Reporting Requirements for January and February 2020

What flexibilities are provided by the Nationwide Waiver for 60 Day Reporting Requirements for January and February 2020?

This waiver allows State agencies to extend the 60-day deadlines for claims for reimbursement for their school food authorities, CACFP sponsoring organizations, and SFSP sponsoring organizations by an additional 30 days. This waiver flexibility only covers program activities for the claiming months of January and February 2020.

Do State agencies need to request individual exceptions to the 60 day claims for reimbursement deadline when local program operators submit claims during the extended period allowed by this waiver flexibility?

No. State agencies must elect to participate in this Nationwide Waiver by informing their FNS Regional Office in writing. They do not need to provide similar notice of participation in the waiver by local program operators. State agencies electing to use this nationwide waiver may continue to accept and pay out January and February 2020 claims from local program operators for an additional 30 days beyond the standard deadline, without seeking an exception from FNS.

Program operators should direct questions regarding this memorandum to a CACFP Contract Specialist.