

Appendix Q.1

Child Nutrition Response #18:

The Nationwide Waiver of Local School Wellness Policy Triennial Assessments in the National School Lunch and School Breakfast Programs

This information is being collected to meet the requirement established in the Family First Coronavirus Response Act (FFCRA) (P.L. 116-127), as extended by the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159), for States to notify the Food and Nutrition Service (FNS) of their election to be subject to each Nationwide waiver. In addition, this Nationwide waiver requires Child Nutrition Program operators to notify their respective State agencies of their election to implement the flexibility granted. FNS uses the information to evaluate Nationwide waiver participation. This collection does not request any personally identifiable information under the Privacy Act of 1974. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0584-0654. The time required for a state to notify FNS of its election to be subject to a nationwide waiver is 5 minutes (.0835 hours), and the time required for a local program operator to notify their respective State agency of their decision to participate in the waiver flexibility granted is 5 minutes (.0835 hours). Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Department of Agriculture, Food and Nutrition Service, Office of Policy Support, 1320 Braddock Place, 5th Floor, Alexandria, VA 22314 ATTN: PRA (0584-0654).



Food and
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DATE: April 23, 2020

CODE: COVID-19: Child Nutrition Response #18

SUBJECT: Nationwide Waiver of Local School Wellness Policy Triennial Assessments in the National School Lunch and School Breakfast Programs¹

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Nationwide Waiver of Local School Wellness Policy Triennial Assessments in the National School Lunch and School Breakfast Programs
Document ID:	
Z-RIN:	
Date of Issuance:	April 23, 2020
Replaces:	N/A
Summary:	(1) FNS waives, for each State that elects to be subject to it, the requirement that local educational agencies (LEAs) conduct a triennial assessment of their local wellness policies by June 30, 2020, and instead allows LEAs to conduct their assessment by June 30, 2021. (2) This waiver applies to State agencies administering and LEAs operating the National School Lunch Program and School Breakfast Program. (3) This document relates to 42 U.S.C. 1758b(b) and 7 CFR 210.31(e)(2).
Disclaimer:	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).

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 related to the novel coronavirus (COVID-19), the Food and Nutrition Service (FNS) is establishing a nationwide waiver to support schools unable to complete a triennial assessment of the local school wellness policies by June 30, 2020, due to school closures as a result of

¹ 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).

COVID-19. This waiver applies to State agencies that have local educational agencies (LEAs) administering the National School Lunch Program (NSLP) and/or School Breakfast Program (SBP).

Based on the July 1, 2017, implementation of the local school wellness policy regulations, the first triennial assessments are due June 30, 2020. However, FNS recognizes that in light of the current public health emergency, providing a revised deadline for completion of these requirements is vital to ensure LEAs can continue to focus on providing meals and meal supplements safely to children.

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

Section 9A(b) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1758b(b)) establishes requirements for local school wellness policies related to implementation, evaluation, and publicly reporting on progress of local school wellness policies. FNS regulations further require at 7 CFR 210.31(e)(2) that, at least once every three years, LEAs assess compliance with the local school wellness policy, and make assessment results available to the public.

Therefore, pursuant to the FFCRA authority cited above, FNS waives, for each State that elects to be subject to it, the above referenced statutory and regulatory requirements and provides a new first triennial assessment deadline of June 30, 2021. Accordingly, LEAs required to complete a triennial assessment by June 30, 2020, may choose to accept the new regulatory deadline and instead complete their first assessment by June 30, 2021. These LEAs then would submit a second triennial assessment by June 30, 2024. FNS recognizes that some LEAs may be prepared to complete their triennial assessment by June 30, 2020, and encourages those that are prepared to do so to complete their assessments on time.

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 LEAs of the flexibilities provided by this waiver as quickly as possible. LEAs wishing to accept a new deadline must inform the State agency by June 30, 2020.

As required by section 2202(d) of the FFCRA, 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 LEAs, 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 COVID-19 and intends to continue supporting access to nutritious meals during this public health emergency.

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 black ink, appearing to read "Ang M Kline". The signature is written in a cursive style with a large initial "A" and a stylized "K".

Angela M. Kline
Director
Policy and Program Development Division