

## Appendix R.1

### Child Nutrition Response #98:

# Nationwide Waiver of Local School Wellness Policy Triennial Assessments in the National School Lunch and ~~EUZaa~~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).



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**DATE:** June 11, 2021

**CODE:** COVID-19: Child Nutrition Response #98

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

**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 of Local School Wellness Policy Triennial Assessments in the National School Lunch and School Breakfast Programs
<b>Document ID:</b>	
<b>Z-RIN:</b>	
<b>Date of Issuance:</b>	June 11, 2021
<b>Replaces:</b>	N/A
<b>Summary:</b>	(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, 2021, and instead allows LEAs to conduct their assessment by June 30, 2022. (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).
<b>Disclaimer:</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).

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 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, 2021, due to school closures as a result of 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).<sup>1</sup>

Based on the July 1, 2017, implementation of the local school wellness policy regulations, the first triennial assessments were due June 30, 2020. On April 2, 2020, FNS issued a nationwide waiver delaying the deadline for the first triennial assessment to June 30, 2021 (see Nationwide Waiver of Local School Wellness Policy Triennial Assessments in the NSLP and SBP at <https://www.fns.usda.gov/cn/nationwide-waiver-local-school-wellness-policy-triennial-assessments-nlsp-sbp>). FNS recognizes that in this public health emergency, alternate feeding operations are demanding State and local Program operators to continue to devote additional resources and time to ensure meals are served to children in a safe manner. Due to the ongoing coronavirus pandemic, the resources required to meet the upcoming Local School Wellness Policy triennial assessment deadlines are better spent on addressing the service of safe meals 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, based on this public health emergency, 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, 2022. Accordingly, LEAs required to complete a triennial assessment by June 30, 2021, may choose to accept the new regulatory deadline and instead complete their first assessment by June 30, 2022. These LEAs then would complete a second triennial assessment by June 30, 2025. FNS recognizes that some

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<sup>1</sup> Except for the burden associated with States' reporting requirements under this waiver, which will be included in an upcoming revision to *School Meals Operations Study: State Agency COVID-19 Child Nutrition Waivers Evaluation*, Office of Management and Budget (OMB) control number 0584-0607, expiration date August 31, 2022, all burden associated with this nationwide waiver, including the responsibility for LEAs to notify States of their decision to exercise the flexibility granted, will be included in an upcoming change request to *FNS Information Collection Needs due to COVID-19*, OMB control number 0584-0654, expiration date January 31, 2022. The burden associated with local school wellness policy requirements is captured under 7 CFR Part 210 National School Lunch Program, OMB control number 0584-0006, expiration date July 31, 2023, and will be reviewed and revised as necessary in the next revision submitted to OMB for approval (including the requirement for LEAs to assess local school wellness policies every three years and any known changes to existing policies or creation of school wellness policies by new LEAs as applicable).

LEAs may be prepared to complete their triennial assessment by June 30, 2021, 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, 2021.

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 elected to receive the waiver. In order to use this waiver, local program 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 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 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.

A handwritten signature in black ink, appearing to read "Ang M Kline". The signature is fluid and cursive, with the first name "Ang" being the most prominent.

Angela M. Kline  
Director  
Policy and Program Development Division