

Appendix O

Child Nutrition Response #91:

The Nationwide Waiver to Allow Specific Meal Pattern Flexibility in the Child and Adult Care Food Program for School Year 2021-2022

The information is being collected to meet the requirement established at Section 2202(a)(2) of 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 elect to be subject to each Nationwide waiver prior to implementing the flexibilities granted in the waiver. In addition, this Nationwide waiver requires Child Nutrition Program (CNP) operators to develop and submit requests to their respective State agencies to utilize the meal pattern flexibilities authorized in the waiver; requests should be targeted and justified based upon disruptions to the availability of food products resulting from impacts of the novel Coronavirus. FNS uses the information collected via this waiver to evaluate Nationwide waiver participation and maintain program integrity. 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 States to notify FNS of their election to be subject to a Nationwide waiver is 5 minutes (.0835 hours). The time required for a local program operator to develop and submit a request to waive meal pattern requirements is 1 hour, and the burden associated with a State agency's responsibility to review each request and respond to a program operator is 15 minutes (.25 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: April 20, 2021

CODE: COVID-19: Child Nutrition Response #91

SUBJECT: Nationwide Waiver to Allow Specific Meal Pattern Flexibility in the Child and Adult Care Food Program for School Year 2021-2022

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 to Allow Specific Meal Pattern Flexibility in the Child and Adult Care Food Program for School Year 2021-2022
Document ID:	
Z-RIN:	
Date of Issuance:	April 20, 2021
Replaces:	N/A
Summary:	(1) Under this waiver, Child and Adult Care Food Program operators in States that elect to be subject to this waiver may serve meals that do not meet specified meal pattern requirements during the public health emergency due to COVID-19. (2) This waiver applies to State agencies administering and local organizations operating the Child and Adult Care Food Program. (3) This document relates to 7 CFR 226.20(a) and (c).
Disclaimer:	The contents of this waiver have the force and effect of law as authorized by the Families 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).

Pursuant to Section 2202 of 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 in light of the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is providing a nationwide waiver to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19). This waiver applies to the Child and Adult Care Food Program (CACFP).

Section 2202 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. Consistent with Section

2202 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. Local program operators must request waivers from their State agency, as described below.

Under program regulations at 7 CFR 226.20(a) and (c), CACFP meals must meet certain meal pattern requirements. However, FNS recognizes that, in this public health emergency, meal pattern flexibility is necessary to ensure the provision of meals in a safe manner. This waiver is for the purpose of implementing appropriate safety measures by supporting alternative meal service models and social distancing in CACFP. Waiving meal pattern requirements would also reduce administrative burden for State agencies and local operators. FNS expects local operators to meet the meal standards to the best of their ability, but recognizes that, in some situations, it might not be possible to meet every component of the meal pattern requirements. Given the challenges when employing appropriate safety measures for COVID–19, this waiver allows States to grant requests from program operators for the flexibilities listed below.

FNS is committed to supporting CACFP providers in serving the most nutritious meals possible as they transition back to normal program operations during the upcoming year. We expect that these flexibilities will be utilized only as needed, and that program operators will seek to meet the meal pattern requirements to the greatest extent possible. In support of that goal, FNS will focus its technical assistance resources on the specific challenges operators face during this transition period.

Therefore, FNS is establishing a waiver for all States of the following CACFP requirements:

- That at least one serving per day, across all eating occasions, must be whole grain-rich, at 7 CFR 226.20(a)(4)(i)(A) and 226.20(c);
- That the crediting of grains by ounce equivalents must be fully implemented by October 1, 2021, at 7 CFR 226.20(c); and
- That low-fat milk (1 percent) must be unflavored at 7 CFR 226.20(a)(1)(iii) and 226.20(c).

All other meal pattern requirements remain in effect. This waiver is effective July 1, 2021, and remains in effect until June 30, 2022.

State agencies should inform local program operators of the availability of this waiver as quickly as possible,¹ and work in partnership with them to determine if this waiver is necessary to ensure access to nutritious meals. Local program operators must contact the State agency for approval to use this waiver, and provide the State agency any necessary information to complete the report requirements discussed below. The State agency must consider approval of this waiver for whole grains, grains ounce equivalency, or low-fat flavored milk requirements on a case-by-case basis, and must report to the FNS Regional

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

Office regarding these flexibilities. When reviewing requests from local program operators, the State agency should consider requests that are targeted and justified with a demonstrated need, based on plans to support access to nutritious meals while minimizing potential exposure to COVID-19.

FNS offers these meal pattern flexibilities to support a successful reopening of child and adult care facilities throughout this summer and school year 2021-2022. To ensure the safety of children, families, and food service professionals, program operators may continue to use alternative meal service models to support social distancing. FNS recognizes that meeting the meal pattern requirements can be challenging when serving meals outside the center or day care home. However, FNS also appreciates the importance of meeting the meal pattern requirements, and expects that operators look to other alternatives prior to utilizing these flexibilities. FNS expects and strongly encourages program operators to maintain and meet the nutrition standards to the greatest extent possible. FNS stands ready to provide technical assistance and to offer alternatives to help stakeholders meet meal patterns. For technical assistance resources on serving whole grains and milk, meeting grains ounce equivalents requirements, and meal service during COVID-19, please see <https://www.fns.usda.gov/tn/child-care-organization>. Federal procurement regulations continue to apply. As a reminder, procurement regulations permit an exception to competitive procurements at 2 CFR 200.320(c)(3) when there is a public emergency that will not permit a delay.

As required by Section 2202(d) of the FFCRA, each State that elects to be subject to these meal pattern flexibilities must submit a report to the Secretary not later than 1 year after the date such State elected to receive the flexibilities.² In order to use these flexibilities, 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 the meal pattern flexibilities by the State agency and local program operators, and
- A description of whether and how the meal pattern 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.

Original Signed

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² 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.