



Food and Nutrition Service

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1320 Braddock Place Alexandria, VA 22314

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

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors	State Directors
Child Nutrition Programs	Food Distribution Programs
All States	All States

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Questions and Answers related to the Child Nutrition Program Monitoring Nationwide Waivers
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Summary:	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.
Disclaimer:	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.
Body of guidance document follows.	

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.

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).

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>.

The attached questions have been grouped under six headings: General Questions, Nationwide Waivers for School Meal Programs Program Onsite Monitoring, Nationwide Waivers for Child and Adult Care Food Program (CACFP) Onsite Monitoring for State Agencies and Sponsoring Organizations, Nationwide Waivers for Summer Food Service Program (SFSP) Onsite Monitoring for State Agencies and Sponsoring Organizations, Offsite Reviews, Nationwide Waiver for 60 Day Reporting Requirements for January and February 2020, and Equipment Assistance Grants.

The questions include clarification about flexibilities for on-site monitoring, recordkeeping requirements, administrative reviews in the school meal Programs, monitoring the Seamless Summer Option, procurement reviews, 60 days reporting requirement flexibilities and Equipment Assistant Grant extensions.

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. State agencies are reminded to distribute this memorandum to Program operators immediately. Program Operators should direct any questions concerning this guidance to their State agency. State agencies with questions should contact the appropriate FNS Regional Office.

Original Signed

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**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

1. 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)

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. What documentation must State agencies that elect to waive onsite monitoring maintain for their Management Evaluation?

State agencies must maintain documentation that will provide FNS the necessary evidence to evaluate whether the State agency as fulfilled its State level responsibilities as outlined in 7 CFR 210.29(c)(2). Examples of documentation for State agencies that elect to conduct monitoring offsite include creating and maintaining a plan of how the State will conduct monitoring offsite (e.g., what documents will be collected through a desk audit, whether video or pictures of meals will be used). Examples of documentation for State agencies who plan to postpone some or all of their reviews include maintaining a list of the school food authority or sponsor review(s) that were postponed and projected new date for review.

Nationwide Waiver for School Meals Programs Onsite Monitoring

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

9. What flexibilities does the Nationwide Waiver make available for monitoring School Meals?

Per COVID-19: Child Nutrition Response #9: Nationwide Waiver of Onsite Monitoring Requirements in the School Meals Programs, State agencies may elect to waive the on-site portions of the Administrative Review (AR), as defined in 7 CFR

210.18. However, FNS strongly encourages State agencies to review these areas offsite, to the maximum extent practicable.

10. The Nationwide Waiver asks State agencies to continue monitoring activities of Program operations off-site to the maximum extent practicable. Which components of the review can State agencies already conduct off-site?

State agencies are required to complete administrative reviews as described in 7 CFR 210.18 and the Administrative Review manual. While certain portions of the review must occur on site (e.g., meal counting and claiming), State agencies are allowed to complete most portions of the administrative review off-site as described in the AR manual and 7 CFR 210.18. Examples of such activities include reviews of: certification and benefit issuance documentation, verification, production records, menus, local wellness policy, Afterschool Snack Service, and Special Milk Program for Children.

11. Many school food authorities (SFAs) in my State are closed until further notice leaving my State agency unable to complete our remaining scheduled administrative reviews, even as an off-site review. What options does my State agency have?

State agencies may postpone the review of currently closed SFAs until later in the current review cycle. As a reminder, 7 CFR 210.18(c) requires that State agencies must conduct ARs at least once during a 3-year cycle, provided that each SFA is reviewed at least once every 4 years. State agencies currently operating under an AR cycle waiver, must review each SFA once by the year after the cycle for which they have been approved (e.g., if a State agency is approved for a 5-year review cycle, all SFAs must be reviewed once every 6 years).

State agencies concerned over the burden associated with postponing administrative reviews may submit a waiver request to extend their existing AR cycle for up to 2 additional years, resulting in a 5-year review cycle.

12. Many SFAs are operating the Seamless Summer Option (SSO) during unanticipated school closures? How should State agencies monitor these schools?

COVID-19: Child Nutrition Response #9: Nationwide Waiver of Onsite Monitoring Requirements in the School Meals Programs, State agencies may elect to waive the on-site portions of the AR, including monitoring of SSO. Additionally, 7 CFR 210.18(e)(3)(ii) states that State agencies must at a minimum, review one site if the SFA selected for an administrative review operates SSO. This review can take place at any site within the SFA the summer before or after the school year in which the

administrative review is scheduled. State agencies may conduct the SSO portion of SY 2019-2020 administrative reviews scheduled for this summer offsite.

13. Are procurement reviews included in the Nationwide Waiver?

Because FNS regulations do not require that procurement reviews be conducted on-site, State agencies may conduct these activities off-site. Additionally, State agencies have the discretion to complete procurement reviews on the same three-year cycle as ARs or to conduct these reviews on an alternate cycle. The alternate cycle may be longer than the current three-year cycle requirement. State agencies must notify their appropriate FNS Regional Office of their procurement review cycle.

**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

14. 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.

15. 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.

16. 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.

17. 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.**

18. 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.

19. 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.

Nationwide Waivers for Summer Food Service Program (SFSP) Onsite Monitoring for State Agencies and Sponsoring Organizations

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

20. What flexibilities does the Nationwide Waiver make available for State agency monitoring of SFSP sponsors operating during an unanticipated school closure?

State agencies may elect to waive portions of SFSP sponsor reviews that can only be done while observing meal service onsite. FNS understands that State agency reviews of SFSP sponsors have traditionally only occurred onsite, however, FNS strongly encourages State agencies to complete sponsor monitoring reviews offsite, to the maximum extent practicable. Additionally, State agencies may also postpone SFSP sponsor reviews until normal summer operations (May through August 2020).

In addition, for sponsors proposing to operate during unanticipated school closures during the period from October through April (or at any time of the year in an area with a continuous school calendar), pre-approval visits are not required and may be conducted at the discretion of the State agency (7 CFR 225.7(d)(1)(i)). Additionally, when the same SFA personnel administer SFSP and NSLP, the State agency is not required to conduct a review of the SFSP in the same year in which the NSLP operations have been reviewed and determined to be satisfactory.

21. Is my State agency required to conduct pre-approval visits of new SFSP sponsors and sites?

State agencies must review new SFSP sponsors and sites 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 SFSP sponsors and sites offsite.

22. What flexibilities does the Nationwide Waiver make available for SFSP sponsors as they conduct site reviews?

SFSP sponsors may elect to waive onsite review requirements at 7 CFR 225.15(d), which require sponsors to visit each of their sites at least once during the first week of operation* and to review food service operations at each site at least once during the first four weeks of operation. FNS understands that SFSP sponsor reviews of sites have traditionally only occurred onsite, however, FNS strongly encourages SFSP sponsoring organizations complete site monitoring and review sites offsite, to the maximum extent practicable.

Additionally, SFSP sponsors may also postpone SFSP site reviews until normal summer operations (May through August 2020). If a SFSP site is only operating during the COVID-19 emergency, the SFSP sponsor must conduct the required review but may elect to do so offsite.

* Please note, many State agencies and sponsors were approved for 2019 SFSP first week of operations site visit waivers which are effective through April 30, 2020. FNS is currently accepting waiver requests for 2020 SFSP first week of operations site visits.

Offsite Reviews

- 23. 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.

- 24. 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

- 25. 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.

- 26. 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.

Equipment Assistance Grants

27. Does my State agency need to submit a waiver request to extend the period of performance of the FY 2018 NSLP Equipment Assistance Grants for reasons related to the COVID-19 public health emergency?

No, a waiver request is not necessary. While the period of performance for the FY 2018 NSLP Equipment Assistance Grants is slated to end on September 30, 2020, the FNS Standard Terms and Conditions for these grants include a provision allowing for a No-Cost-Extension (NCE). The NCE extends the final budget period of a previously approved project one time for up to 12 months, with no additional funding. Please see process outlined below.

28. How does my State Agency request a No-Cost-Extension for the NSLP Equipment Assistance Grants?

State agencies should contact their Regional Office in order to begin this process. Requests for NCEs must be made no later than 10 days prior to the end of the period of performance to the Agency Contact listed on the Grant Cooperative Agreement (Form FNS-529, box 7). Upon approval, an updated Grant Cooperative Agreement is completed to reflect the extended period of performance.