

School Food Authority (SFA) Waiver Guidance for the 2022-23 School Year

As a result of the COVID-19 pandemic, the United States Department of Agriculture (USDA) provided waivers to allow all children to eat at no cost through the USDA Seamless Summer Option (SSO) program. Since April 2020, children throughout the United States have been able to eat meals at school at no cost to them. However, USDA no longer has the authority to grant such waivers, and, as such, school meal service will resume through the National School Lunch Program (NSLP) and School Breakfast Program (SBP), operating as it did before the outbreak of COVID-19 in March 2020.

The National School Lunch Program and School Breakfast Program follow different federal regulations than the Seamless Summer Option. Below are some of the changes we expect to see.

SY21-22 Operations

- All students ages 18 and under ate at no cost.
- Operating SSO. Students did not have to be enrolled in a school district to receive meals from that district if operating an open site.
- Free and reduced-price meal applications were encouraged but not required.
- The below waivers expire June 30, 2022:
 - SSO SY21-22 Operation & Area Eligibility – COVID-19: CN Response #85
 - SFSP Reimbursement Rates – COVID-19: CN Response #86
 - Non-Congregate Meal Service – COVID-19: CN Response #87
 - Meal-Times Requirements – COVID-19: CN Response #88
 - Parent Pick-Up – COVID-19: CN Response #89
 - Meal Pattern Flexibility – COVID-19: CN Response #90
 - Fiscal Action Flexibility – COVID-19: CN Response #100
 - OVS Flexibility – COVID-19: CN Response #92
 - Onsite Monitoring Requirements – COVID-19: CN Response 94 (more information below)
 - Supply Chain Challenges – COVID-19: [Memo](#) update on September 22, 2021. Emergency procurement flexibilities remain in effect until the public emergency is declared over.

SY22-23 Operations

School Food Authorities (SFA) can no longer provide meals at no cost to all students (because the SSO operation waiver ends and NSLP will resume), but students may receive meals at no cost if they:

- are enrolled in Community Eligibility Provision (CEP) or Provision 2 school; or
- are Directly Certified or Extended Directly Certified; or
- qualify through a household income application.

The waivers listed below are available through June 30, 2023, but the use of these waivers is limited and can only be implemented **when the COVID-19 pandemic limits congregated meal service**. Approval to use these will be granted on a case-by-case basis by submitting a request to the state director and can be found on TDOE's website, [here](#), by navigating to "Additional Information," then "COVID-19 Guidance," then "Flexibilities" (2 forms).

- *Waiver 3: Non-Congregate Meal Service (NSLP and SBP)*

- *Waiver 4: Parent and Guardian Meal Pick Up (NSLP and SBP)*
- *Waiver 5: Meal Service Times (NSLP and SBP)*
- *Waiver 6: Offer Versus Serve (NSLP)*
- *Waiver 14: Parent and Guardian Pick Up (FFVP)*
- *Waiver 15: Alternate Site (FFVP)*
- *Waiver 16: Non-Congregate Meal Service during Unanticipated School Closures (SFSP/SSO)*
- *Waiver 17: Parent and Guardian Meal Pick-Up during Unanticipated School Closures (SFSP/SSO)*
- *Waiver 18: Meal Service Times for Unanticipated School Closures (SFSP/SSO)*
- *Waiver 19: Service of Meals at School Sites during Unanticipated School Closures*

The following waivers in this section are available for SY22-23 **without special COVID-19 conditions, but some require the state director's approval**. FNS expects program operators to use the flexibilities only for the duration and extent they are needed.

- *Waiver 7: Local School Wellness Policy Triennial Assessment (NSLP)*
 - The first triennial assessments were due June 30, 2020.
 - A previous waiver delayed the deadline for the first triennial assessment to June 30, 2022.
 - The current waiver delays the deadline for the first assessment to June 30, 2023.
 - SFAs can apply for this waiver by completing the waiver form on our website (click here, under "COVID-19 Guidance") and emailing it to the state director for approval.
- *Waiver 8: Food Service Management Company (FSMC) Contract Duration (NSLP and SFSP)*
 - *This waiver may not be beneficial in Tennessee because our FSMCs begin the RFP process in December/January and may have completed the process before this waiver release.*
 - This allows FSMC to extend existing contracts for an additional year, through June 30, 2023.
 - Please reach out to your regional consultant if you would like to use this waiver.
- *Waiver 9: Administrative Review Onsite Requirements (NSLP and SBP)*
 - Onsite Review Requirements are required, but can be completed off-site.
 - SFAs do not have to apply for this waiver; it is automatic.
- *Waiver 25: Paid Lunch Equity (NSLP)*
 - SFAs do not have to apply for this waiver; it is automatic.
 - There may need to be district follow-up, such as a survey of lunch pricing, depending on FNS reporting requirements, which are not known at this time.
- *Waiver 26: Carryover Eligibility (NSLP and SBP)*
 - SFA's do not have to apply for this waiver; it is automatic.

Additional details – Waiver 25: Paid Lunch Equity

The Paid Lunch Equity (PLE) provision is the requirement to annually establish prices for paid student lunch meals using the PLE Tool provided by FNS. For the past several years (even before COVID), only SFAs with a zero or positive balance in their nonprofit school food service account as of December 31 were exempt from conducting PLE requirements.

For SY22-23, SFAs do not have to complete the PLE tool, nor are they required to raise paid student prices, regardless of their nonprofit school food service account balance. SFAs may choose to raise paid student prices if they desire.

Additional details – Waiver 26: Carryover Eligibility

When determining eligibility for the 30-day grace "carryover" period, remember that eligibility is based on each student's individual situation. SFAs will use individual student eligibility from SY19-20 unless a student has a more current eligibility determination. To provide further clarity, some scenarios are listed below.

- If a student's eligibility in SY19-20 was Free or Reduced based on an Income application, and that student did not reapply for benefits for SY20-21 or SY21-22, the student **is eligible** for the 30-day carryover period in SY22-23.
- If a student's eligibility in SY19-20 was Free or Reduced based on an Income application, and that student reapplied in SY20-21 or SY21-22 but was denied, the student **is not eligible** for the 30-day carryover period in SY22-23.
- If a student's eligibility in SY19-20 was Free Directly Certified, and the student did not appear on any Directly Certified list in the subsequent school years, the student **is eligible** for the 30-day carryover period in SY22-23.
- If a student's eligibility in SY19-20 was Free Directly Certified Extended, and the student whose benefits were extended did not appear on any Directly Certified list in the subsequent school years, the extended student **is eligible** for the 30-day carryover period in SY22-23.
- If a student's eligibility in SY19-20 was Free Directly Certified, and the student did not appear on any Directly Certified list in subsequent school years but was listed on a household income application in either SY20-21 or 21-22 that was denied, then that student **is not eligible** for carryover in SY22-23.

Things to remember:

- The 30-day carryover period is not a guarantee of 30 days. It is for 30 days or until a new eligibility determination has been made, whichever comes first.

Tips for identifying carryover eligible students:

- Cross-reference the P-EBT eligibility list against the meal charge list daily/weekly to target students that may not have 30-day grace in the software but are eligible for it based on the guidelines above.
 - If you are changing a student's eligibility in the software to give the 30-day grace, be sure to use the function in nutrition software to "expire" the temporary eligibility (changing them to a paid status) if they don't have new eligibility by the expiration date. If the software doesn't have that function, maintain a list of students who need to be manually expired if they don't have new eligibility by the expiration date.
- It may be helpful to contact your software vendor about how to get prior eligibility into the system for the carryover period. The vendor may have the possibility to run a list of prior data.

For additional questions or assistance, please reach out to your regional consultant, email the School Nutrition helpline at School.Nutrition@tn.gov, or contact the Office of School Nutrition hotline at 800-354-3663, which is available daily from 7:00am - 4:30pm CT.