



State of New Jersey

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To: School Business Administrators, Charter School Leads; Non Public School Administrators;
Food Service Directors of Schools Participating in the School Nutrition Programs

From: Arleen Ramos-Szatmary, Coordinator
School Nutrition Programs

Date: September 22, 2020

Subject: Meal Pattern Flexibility Waiver for School Year 2020-2021

USDA's *Child Nutrition Response #36: Nationwide Waiver to Allow Meal Pattern Flexibility* and *Child Nutrition Response #53: Nationwide Waiver to Allow Meal Pattern Flexibility - Extension 7* allows School Food Authorities (SFAs) to request meal pattern exemptions in the National School Lunch Program, School Breakfast Program and the Seamless Summer Option, respectively, as long as they are targeted, justified, and based on plans to support access to nutritious meals while minimizing potential exposure to COVID-19 during the 2020-2021 School Year.

School Food Authorities should carefully consider all available crediting options and appropriate substitutions within a meal pattern component before requesting a waiver. Waivers will not be approved without proof that all other options have been exhausted prior to waiver submission.

SFAs may consider submitting a meal pattern waiver for the following reasons:

- a meal pattern waiver will minimize potential exposure to staff or students during on-site or off-site meal service models and will not negatively impact the nutritional quality of the meals
- a meal pattern waiver will minimize potential contact between food service professionals and food items and will not negatively impact the nutritional quality of the meals

SFAs should not submit a waiver application for the following reasons:

- to attempt to cut costs by eliminating a component
- based on food supply issues
- for convenience

Federal reporting requirements associated with the waiver specify that meal pattern waivers must clearly indicate the component waived. Therefore, please be clear in the waiver which component the proposed waiver impacts. For example, an SFA may submit a waiver to waive a specific vegetable subgroup and replace it with another vegetable subgroup. Or, a district providing a weekly meal distribution may wish to provide the highest grade-grouping to all students in order to decrease time spent by students and parents/guardians on-site. In this case, the SFA may submit a waiver requesting the portion size be waived of those components impacted for the students in the younger grade-grouping.

In addition, the U.S. District Court for the District of Maryland found a procedural error with the promulgation of the 2019 Final Rule, Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements (83 FR 63775, December 12, 2018), and therefore, vacated the regulation. For this reason, the flexibilities provided in the vacated rule are no longer available to States and local Program operators. **This signifies that for SY2020-2021, flavored milk may only be non-fat; all grains served in the Seamless Summer Option (SSO), NSLP and SBP must be whole-grain rich; and school lunches and breakfasts offered through the SSO, NSLP and SBP must meet Target 2 weekly sodium levels as defined in 7 CFR 210.10(c) and 220.8(c).**

SFAs may request an exemption if the 2012 nutrition standard requirements cannot be met for School Year 2020-2021 as per USDA's *SP24-2020, Questions and Answers for the Child Nutrition Programs for School Year 2020-2021*. If approved, SFAs can return to 2019 flexibilities, which include: the allowance of low-fat, flavored milk, the requirement that half of the weekly grains offered in the Seamless Summer Option, National School Lunch Program and School Breakfast Program meet the whole grain-rich criteria, and maintenance of the Target 1 sodium levels.

For SFAs currently participating in the Seamless Summer Option who have checked off all applicable programs (SSO, NSLP, and SBP) on the waiver, a new waiver will not be required when returning to standard claiming under the National School Lunch and School Breakfast Programs. Upon approval, the meal pattern flexibility waiver is valid through June 30, 2021.

SFAs choosing to submit a waiver may e-mail Form #378 to snspecialprojects@ag.nj.gov.

Questions may be directed to 609-984-0693.