



Food and Nutrition Service

DATE: March 2, 2022

MEMO CODE: SP 04-2022, CACFP 04-2022

Braddock Metro Center

SUBJECT: Question and Answer Guidance on the Final Rule *Child Nutrition Programs: Transitional Standards for Milk, Whole Grains, and Sodium* Effective July 1, 2022

1320 Braddock Place Alexandria VA 22314

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:	Question and Answer Guidance on the Final Rule, <i>Child Nutrition Programs: Transitional Standards for Milk, Whole Grains, and Sodium</i> Effective July 1, 2022
Document ID:	
Z-RIN:	
Date of Issuance:	March 2, 2022
Replaces:	SP 37-2019, CACFP 16-2019, <i>Questions and Answers on the Final Rule Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements</i> , dated September 23, 2019
Summary:	These questions and answers provide guidance for recently published transitional standards for milk, whole grains and sodium.
Disclaimer:	

Attached are Questions and Answers (QA) on the final rule titled, Child Nutrition Programs: Transitional Standards for Milk, Whole Grains, and Sodium (87 FR 6984, February 7, 2022). This guidance is intended to be transitional and in effect for school years (SY) 2022-2023 and 2023-2024. FNS plans to promulgate a new rule for long-term meal pattern requirements to be effective starting in SY 2024-2025. In case of a delay, this updated guidance will remain effective until subsequent standards are promulgated through rulemaking. This QA memorandum rescinds and replaces SP 37-2019, CACFP 16-2019, *Questions and Answers on the Final Rule Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements*, dated September 23, 2019.

These QAs address the following key provisions of the final rule:

Flavored Milk

The rule allows schools participating in the National School Lunch Program (NSLP) and School

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

Breakfast Program (SBP) to offer flavored, low-fat (1 percent) milk at lunch and breakfast and as a beverage for sale a la carte, and requires that unflavored milk (fat-free or low-fat) be available at each school meal service. For consistency across Programs, the rule extends the transitional milk requirements to the Special Milk Program for Children and to the Child and Adult Care Food Program for children ages six and older and adult participants. This rule also clarifies that lactose-free and reduced-lactose fluid milk meet the Special Milk Program for Children and the Child and Adult Care Food Program requirements for fluid milk to provide consistency across all Child Nutrition Programs.

Whole Grains

The rule requires that at least 80 percent of the weekly grains in the NSLP and SBP be whole grain-rich; the remaining weekly grains offered must be enriched.

Sodium

The final rule retains Sodium Target 1 for NSLP and SBP through SY 2022-2023, retains Sodium Target 1 for SBP in SY 2023-2024, and institutes a Sodium Interim Target 1A for NSLP for SY 2023-2024.

State agencies are reminded to distribute this memorandum to Program operators. 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

Tina Namian
Acting Director
Policy and Program Development Division

**Child Nutrition Programs: Transitional Standards for Milk, Whole Grains, and Sodium
Effective July 1, 2022 - Final Rule (87 FR 6984, February 7, 2022)**

Questions and Answers

1. When must Program operators comply with the transitional meal standards established by this final rule?

The implementation date of the transitional meal standards in this rule is July 1, 2022. This rule revises the flavored milk, whole grain-rich, and sodium requirements beginning school year (SY) 2022-2023.

Effective July 1, 2022, at least 80 percent of the weekly grains offered in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) must be whole grain-rich, and the remaining weekly grains offered must be enriched. Therefore, schools will be able to offer a limited amount of enriched grain items as part of the weekly menu and credit them toward the grains component.

This final rule permits Program operators to offer flavored, low-fat (1 percent) milk in the NSLP and SBP to children in grades K-12, and to children ages 6 and older participating in the Child and Adult Care Food Program (CACFP) and Special Milk Program (SMP). This transitional meal standard also applies for adult participants in the CACFP.

In addition, this rule retains Sodium Target 1 in the NSLP and SBP through SY 2022-2023, retains Sodium Target 1 for SBP in SY 2023-2024, and institutes Sodium Interim Target 1A for NSLP beginning in SY 2023-2024.

Please visit the *Nutrition Standards for School Meals* web page (<https://www.fns.usda.gov/cn/nutrition-standards-school-meals>) for updated information, such as the meal pattern charts with the transitional meal standards for SY 2022-2023 and SY 2023-2024.

2. How will the transitional whole grain-rich standard impact breakfast when meats/meat alternates are used to meet part of the grains requirement?

The whole grain-rich requirement applies *only* to grain-based food items, and not meat/meat alternates crediting toward the grains component at breakfast. At least 80 percent of the actual grains offered throughout the course of the week must be whole grain-rich. Whole grain-rich products contain at least 50 percent whole grains and the remaining grains, if any, must be enriched.

3. Does USDA have a tool for schools to use in tracking the amount of whole grains and enriched grains offered?

Schools may track meal components, including grains, using the following methods:

- USDA-approved software, purchased by schools (see <https://www.fns.usda.gov/tn/usda-approved-nutrient-analysis-software>)

- Production records: The Menu Planner for School Meals includes sample production records (please note States may have their own specific documentation requirements). See Chapter 4: https://fns.usda.gov/sites/default/files/tn/MenuPlanner_Ch4_508.pdf

4. What guidance exists for understanding the enriched grain requirements?

Enriched grains are refined grains that have been processed to remove the nutrient-rich bran and germ, and then have thiamin, riboflavin, niacin, folic acid, and iron added after processing. Similarly, a food that is fortified has certain vitamins and minerals added to increase the nutritional quality. Foods made from refined grains that meet at least one of the following criteria are considered creditable:

1. The food is labeled as “enriched.” For example, long grain rice that is enriched will have the product name “enriched long grain rice.”
2. An enriched grain is listed as the first ingredient on the food’s ingredient list or second after water. The ingredient list will usually state “enriched flour” or “enriched wheat flour,” or there is a sub-listing of nutrients used to enrich the flour, for example, “yellow corn flour {iron, folic acid, riboflavin, niacin, and thiamine}.”
3. For breakfast cereals, the product is labeled as “fortified” or the ingredient list names the vitamins and minerals that have been added to the product. If a breakfast cereal is fortified, it does not need to be enriched. For example, the ingredient list of a fortified breakfast cereal may read, “Ingredients: Wheat flour, sugar, contains 2% or less of salt, baking soda, caramel color, BHT for freshness. Vitamins and Minerals: Vitamin C (sodium ascorbate, ascorbic acid), niacin, vitamin B6 (pyridoxine hydrochloride), reduced iron, zinc oxide, folic acid, vitamin B2 (riboflavin), vitamin B1 (thiamin hydrochloride), vitamin A palmitate, vitamin D, vitamin B12.”

NOTE: The ingredient list of a non-fortified cereal would not name any added vitamins and minerals. For example, the ingredient list of a non-fortified breakfast cereal may read, “Ingredients: rice flour, corn flour, evaporated cane juice, pomegranate juice concentrate, sea salt.” This particular cereal would not be considered a creditable grain because it is not made from whole or enriched grains and is not fortified.

The Child Nutrition Labeling Program also includes enriched grain crediting information on product labels used by Program operators.

Consistent with existing whole grain-rich guidance for schools, any non-creditable grains in products or recipes used to meet the enriched grain requirements are limited to an insignificant amount, which is defined as less than 0.25 ounce equivalency. For products from Exhibit A, Groups A – G, this means that there must be *fewer* than 4 grams of non-creditable grain per portion. For products from Group H, this means that there must be *fewer* than 7 grams of non-creditable grain per portion. FNS has updated our grain guidance and resources to promote options and compliance under these transitional meal standards.

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

5. What are the transitional milk standards in the final rule?

Effective July 1, 2022, schools in the NSLP and SBP may offer fat-free or low-fat (1 percent) milk, and have the option to offer flavor in either type of milk. This transitional standard is also allowed for children 6 years and older in the CACFP and SMP and adult participants in the CACFP. To ensure that milk variety is not limited to flavored milk, schools in the NSLP and SBP must offer at least one type of unflavored milk (fat-free or low-fat) at each meal service.

6. Is the option to offer flavored, low-fat milk available to CACFP operators other than school sites?

The option to offer flavored, low-fat (1 percent) milk is not restricted to school locations. This transitional standard is available to all CACFP child care facilities that serve meals to children ages 6 and older, and adult day care centers. Flavored milk may only be offered to CACFP participants ages 6 and older.

7. Is flavored low-fat milk allowable in the NSLP afterschool snack service, and does the requirement to offer unflavored milk apply?

The NSLP afterschool snack service must include two full servings of any of the following: fluid milk; meat or meat alternate; vegetable or fruit, or full-strength vegetable or fruit juice; whole-grain or enriched bread. Flavored, low-fat milk is allowable in the NSLP afterschool snack service. Because the service of afterschool snacks should be simple, the requirement to offer a variety of milk types, including unflavored milk, does not apply in the NSLP afterschool snack service. Juice must not be served when fluid milk is served as the only other component.

8. Do these transitional standards apply to Smart Snacks in Schools (SSIS)?

The only change in this final rule that affects SSIS is the transitional standard allowing the sale of flavored, low-fat milk as a competitive food on the school campus, during the school day. This final rule does not change the SSIS requirements regarding grains or sodium (7 CFR 210.11). The SSIS standard is a nutrition requirement for an individual food item. In contrast, NSLP and SBP have daily and weekly requirements.

9. May schools offer water in place of milk?

No. Fluid milk is a required component of a reimbursable meal. Program operators must not promote or offer water, juice, or any other beverage as an alternative selection to fluid milk in a reimbursable meal throughout the food service area. Schools must not directly or indirectly restrict the sale or marketing of fluid milk (7 CFR 210.10(d)(4)).

Although water is not a required part of a reimbursable meal, potable water must be available to students at no charge during meals, in the food service area or on the service line, separate from fluid milk (to prevent confusion).

Schools must use signage to help students select a reimbursable meal. See memorandum SP 28-2011 *Revised Child Nutrition Reauthorization 2010: Water Availability During National School Lunch Program Meal Service* (July 12, 2011, available at: <https://www.fns.usda.gov/cn/water-availability-during-nslp-meal-service>) and memorandum SP 39-2019 *Clarification on the Milk and Water Requirements in the School Meal Programs* (September 23, 2019, available at: <https://www.fns.usda.gov/cn/clarification-milk-and-water-requirements-school-meal-program>).

10. May State agencies establish State standards that are stricter than the Federal requirements for milk, whole grains, and sodium in the NSLP and SBP?

The regulations at 7 CFR 210.19(e) allow State agencies discretion to set additional requirements that are not inconsistent with the minimum nutrition standards for school meals. However, a State agency must reimburse school food authorities for meals and afterschool snacks served in accordance with the Federal requirements. A State agency cannot withhold Federal Program funds or take back reimbursement for meals that meet the minimum Federal requirements. When considering matters of local control, USDA encourages States to establish standards incorporating the transitional meal standards that work best for their communities and schools.