USDA
United States Department of Agriculture

Food and Nutrition Service

Park Office Center

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SUBJECT: Meal Service During Unanticipated School Closures[1]

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

The purpose of this memorandum is to provide updated guidance on the Child Nutrition Program flexibilities available during unanticipated school closures. Schools may face unanticipated closures due to natural disasters, unscheduled major building repairs, court orders relating to school safety or other issues, labor-management disputes, or, when approved by the State agency, a similar cause. Unanticipated school closures prevent children from receiving educational instruction and the nutritious meals they would normally receive. The Food and Nutrition Service ("FNS") encourages school food authorities ("SFAs") participating in the National School Lunch Program ("NSLP") and/or the School Breakfast Program, institutions participating in the Child and Adult Care Food Program ("CACFP"), and sponsors participating in the Summer Food Service Program ("SFSP") to use the flexibilities described in this memorandum to help ensure that children do not experience a lapse in food security when extreme weather or other events force area schools and child care facilities to close.

This memorandum supersedes SP 55-2016 CACFP 26-2016 SFSP 18-2016, *Meal Service During Unanticipated School and Day Care Closures*, September 9, 2016. FNS is conducting a review of whether nationwide waivers issued through policy memoranda are in compliance with the statutory waiver authority requirements set forth in Section 12(l) of the Richard B. Russell National School Lunch Act ("NSLA"), 42 U.S.C. 1760(1). As a result, FNS determined that the previous memorandum—which allowed meals to be served at school sites without requiring submission of individual waivers for FNS approval—is not fully consistent with Section 12(l) waiver requirements.

**Operating the Summer Meal Programs**

During unanticipated school closures, State agencies and Program operators may determine that operating the SFSP and/or NSLP Seamless Summer Option ("SSO") is a feasible option. FNS recommends that State agencies include an option on their SFSP and

[1] Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this memorandum as not a major rule, as defined by 5 U.S.C. § 804(2).

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NSLP application that allows SFAs and sponsors to indicate whether they intend to serve meals during an unanticipated closure should unforeseen events occur.

If sponsors are approved by their State agency to serve meals during unanticipated school closures, these meals, like all SFSP and SSO meals, are reimbursed at the appropriate free rates. If there is an unanticipated school closure and child care centers and/or day care homes in the area are also affected, children that normally attend those centers or homes may participate in the SFSP or SSO meal service during the closure and receive meals at no cost. Consistent with regular SFSP and SSO operations, SFSP and SSO sites operating during an unanticipated school closure are open to all children age 18 and under.

State agencies are required to monitor SFSP operators that serve meals during unanticipated school closures consistent with the requirements found at 7 CFR 225.7(d). However, pre-approval visits of 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) 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 as well as the 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.

When unanticipated school closures occur, State agencies may exempt experienced sponsors and SFAs from submitting a new application if the sponsor participated in SFSP at any time during the current year or in either of the prior two calendar years (7 CFR 225.6(c)(1)). In addition, new sponsors applying for participation in the Program due to an unanticipated school closure are exempt from the application submission deadline (7 CFR 225.6(b)(1)). Area eligibility requirements still apply during unanticipated school closures.

Policy memorandum SP 55-2016 CACFP 26-2016 SFSP 18-2016, *Meal Service During Unanticipated School and Day Care Closures*, September 9, 2016, allowed State agencies to waive the requirement that during unanticipated school closures meals be served at non-school sites. Section 13(c)(1) of the NLSA (42 U.S.C. 1761(c)(1)) requires that meals served to children not in school during an unanticipated closure may only be reimbursed by FNS if the meals were served at non-school sites. Therefore, effective immediately, SFSP and SSO meals may no longer be served at school sites during unanticipated school closures, per 7 CFR 225.6(d)(1)(iv), without a waiver approved by FNS.

If an SFA or sponsor wants to provide SFSP or SSO meals during an unanticipated school closure, they must either provide meals at a non-school site or request a waiver from FNS through their State agency. For requests encompassing areas that are covered under a Major Disaster Declaration from the Federal Emergency Management Agency ("FEMA"), State agencies should contact their FNS Regional Office to discuss disaster waiver procedures. To request a waiver for an area not covered under a Major Disaster Declaration from the FEMA, State agencies must use the process described in SP 15-2018 CACFP 12-2018 SFSP 05-2018, *Child Nutrition Program Waiver Request Guidance and Protocol- Revised*, May 24, 2018, https://www.fns.usda.gov/child-nutrition-program-waiver-request-guidance-and-protocol-

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revised, and are strongly encouraged to use the template provided with that guidance.[2] Using that protocol, State agencies may submit individual waiver requests for all or part of their State prior to an unanticipated school closure occurring. For example, if part of a State typically must close schools for snow days, a State agency may request a waiver at any time requesting authority to allow schools to serve at school sites as needed.

FNS will consider all complete waiver requests and will make determinations based on relevant statutory and regulatory requirements and authorities. Complete waiver requests must demonstrate how the requested waiver will further Program priorities.

**Using the At-Risk Afterschool Meals Component of the CACFP**

State agencies may allow afterschool centers to continue serving meals and snacks through the At-Risk Afterschool Meals component of CACFP during unanticipated school closures (7 CFR 226.17a(b)(1)). When operating during unanticipated school closures, afterschool centers must continue to meet At-Risk Afterschool requirements, including the requirement that programs must offer education or enrichment activities. With State agency approval, afterschool centers that normally offer a snack and supper after school may instead choose to offer either lunch and a snack, or breakfast and a snack. These meals and snacks are reimbursed through CACFP at the free rate. For more information about operating the At-Risk Afterschool Meals component of CACFP, see http://www.fns.usda.gov/cacfp/afterschool-programs.

FNS appreciates the willingness of State agencies and Program operators to consider implementing the various options and flexibilities offered through the Federal Child Nutrition Programs to ensure that children receive the meals they need to remain healthy and active throughout the year.

State agencies are reminded to distribute this information to Program operators. Program operators should direct any questions regarding this memorandum to the appropriate State agency. State agencies should direct questions to the appropriate FNS Regional Office.

Original Signed

Angela Kline
Director
Policy and Program Development Division

[2] Please note that the waiver process described in SP 15-2018, CACFP 12-2018, SFSP 05-2018 is subject to the Paperwork Reduction Act. The potential Information Collection Burden imposed upon States by the waiver process will be included as a part of an Information Collection expected to be open for public comment in fiscal year 2020.

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