



Food and
Nutrition
Service

DATE: September 23, 2019

Park Office
Center

MEMO CODE: SP 39-2019

3101 Park
Center Drive
Alexandria
VA 22302

SUBJECT: Clarification on the Milk and Water Requirements in the School Meal Programs¹

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

This memorandum rescinds and replaces SP 19-2018, issued August 6, 2018. This updated memorandum clarifies regulations that water made available to students in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) shall not compete with the milk requirement. The NSLP regulations at 7 CFR 210.10(a)(1)(i) require schools to make water available and accessible to children during the meal service. Similarly, the SBP regulations at 7 CFR 220.8(a)(1) require schools to make water available and accessible during the meal service if breakfast is served in the cafeteria. While water must be made available, schools must not directly or indirectly restrict the sale or marketing of fluid milk (7 CFR 210.10(d)(4)).

There are several ways in which a school can implement the water requirement without restricting the selection of fluid milk. Memorandum SP 28-2011, Revised July 12, 2011: *Water Availability During National School Lunch Program Meal Service*, explains that schools can offer water pitchers and cups on lunch tables, a water fountain, or a faucet that allows students to fill their own bottles or cups with drinking water. There may be some instances where, to facilitate a smooth lunchroom service or in the case of safety, a school decides to provide bottled water to meet the water requirement instead of providing a water fountain or water pitcher and cups. In whatever manner water is served, it is not part of the reimbursable meal, and students are not required to take water. Furthermore, commercially packaged water and potable water should not be made available on the serving line in any manner that interferes with or appears to substitute for the selection of components of the reimbursable meal, including low-fat or fat-free milk.

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).

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

Angela Kline
Director,
Policy and Program Development Division