



Food and
Nutrition
Service

Braddock
Metro Center

1320
Braddock
Place
Alexandria
VA 22314

DATE: June 25, 2020

CODE: COVID-19: Child Nutrition Response #37

SUBJECT: Nationwide Waiver to Allow Offer Versus Serve Flexibility for Senior High Schools in the National School Lunch Program for School Year 2020-2021¹

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:	Nationwide Waiver to Allow Offer Versus Serve Flexibility for Senior High Schools in the National School Lunch Program for School Year 2020-2021
Document ID:	
Z-RIN:	
Date of Issuance:	June 25, 2020
Replaces:	N/A
Summary:	(1) FNS waives, for all States, the requirement for senior high schools (as defined by the State educational agency) to participate in Offer Versus Serve during school year 2020-2021. (2) This waiver applies to State agencies administering and local organizations operating the National School Lunch Program. (3) This document relates to 42 U.S.C. 1758(a)(3) and 7 CFR 210.10(e).
Disclaimer:	The contents of this guidance document have the force and effect of law as authorized by the Families First Coronavirus Response Act (P.L. 116-127).

Pursuant to the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127) and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is establishing a nationwide waiver to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19) for school year (SY) 2020-2021. This waiver applies to the National School Lunch Program (NSLP).

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

Section 2202(a) of the FFCRA permits the Secretary of Agriculture to establish a waiver for all States for the purposes of providing meals under the Child Nutrition Programs, with appropriate safety measures, as determined by the Secretary.

Under the Richard B. Russell National School Lunch Act at 42 USC 1758(a)(3) and Program regulations at 7 CFR 210.10(e), Program operators of senior high schools (as defined by the State education agency) must participate in offer versus serve. However, FNS recognizes that for school year 2020–2021, due to the COVID-19 public health emergency, waiving the offer versus serve requirement will support safe access to nutritious meals. The Centers for Disease Control and Prevention has recommended that schools serve individually plated meals in classrooms instead of in a communal cafeteria (see <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/schools.html>). Schools attempting to adhere to this guidance may be unable to also effectively adhere to offer versus serve requirements. Additionally, this waiver will enable schools to offer complete meals for delivery or pickup for students doing distance learning. Therefore, for SY 2020–2021, FNS waives, for all States, the requirement at 42 USC 1758(a)(3) and 7 CFR 210.10(e), to serve meals using offer versus serve principles to all senior high school students. This waiver is effective July 1, 2020, through June 30, 2021.

Consistent with Section 2202(a)(2) of the FFCRA, this waiver applies automatically to all States that elect to use it, without further application. If the State agency elects to implement these flexibilities for SY 2020–2021, it must notify its respective FNS Regional Office, which will acknowledge receipt. State agencies should inform local Program operators of the flexibilities provided by this waiver as quickly as possible, and work in partnership with local operators to provide meals to all participants in a safe and accessible manner.

As required by Section 2202(d), each State that elects to be subject to this waiver must submit a report to the Secretary not later than 1 year after the date such State received the waiver. The report must include:

- A summary of the use of this waiver by the State agency and local Program operators, and
- A description of whether and how this waiver resulted in improved services to Program participants.

FNS appreciates the exceptional effort of State agencies and local program operators working to meet the nutritional needs of participants during a challenging time. State agencies should direct questions to the appropriate FNS Regional Office.

Sincerely,



for

Angela M. Kline
Director
Policy and Program Development Division