

Commissioner's Memo
9/30/2021

Waiver to Allow Fiscal Action Flexibility for Meal Pattern Violations related to Supply Chain Disruptions for SY 21-22

Memo Information

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Memo Date 9/30/2021

Memo Type Regulatory

Unit Child Nutrition

Regulatory Authority USDA Memo COVID-19: Child Nutrition Response #100, 2 CFR 200.320(c)

Response Required NO

Attention

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Memo Text

ATTENTION: CO-OP DIRECTORS; SUPERINTENDENTS; CHILD NUTRITION DIRECTORS; BUSINESS MANAGERS

The purpose of this memo is to provide guidance on the waiver to allow fiscal action flexibility for meal pattern violations related to COVID-19 supply chain disruptions impacting school meals in school year 2021-2022.

Based on exceptional circumstances of this public health emergency and current national supply chain constraints, the Food and Nutrition Service (FNS) is granting a waiver of certain fiscal action requirements in the National School Lunch Program (NSLP), School Breakfast Program, and by extension the NSLP Seamless Summer Option (SSO). This waiver is available to School Food Authorities (SFA) when there is a supply chain disruption due to COVID-19.

The Arkansas Child Nutrition Unit has opted into CN Response #100 waiving the following regulations:

- The requirement to apply fiscal action for missing food components or missing production records as detailed in 7 CFR 210.18(1)(2)(i); and
- The requirement to apply fiscal action for repeated violations involving milk type and vegetable subgroups as detailed in 7 CFR 210.18(1)(2)(ii)

Implementation of Waiver #100

This flexibility is designed to be implemented on an as needed basis when all other alternatives have been exhausted. SFAs are expected to maintain and meet the nutrition standards for all meal programs to the greatest extent possible. Providing highly nutritional meals to students that meet the meal pattern must continue to be the priority of Arkansas Child Nutrition programs.

SFAs are encouraged to substitute like items and/or modify the menu to serve all required components before utilizing this flexibility.

SFAs may also conduct noncompetitive procurement as detailed in 2 CFR 200.320(c) to make purchases under emergency conditions. If an awarded vendor is unable to provide food or supplies needed to administer the program, this may constitute an emergency and allow the SFA to utilize noncompetitive procurement. Emergency noncompetitive procurement methods are allowed and do not require a waiver. Documentation of purchases made through noncompetitive procurement should be retained at the SFA and available upon review if requested.

If an SFA experiences a disruption receiving required meal pattern components and implementation of waiver #100 is needed, the district must maintain documentation specifying the disruption.

Documentation should include:

1. Record of the disruption. Examples: Vendor email correspondence, written documentation of a phone conversation with vendor, vendor outage report.
2. Record of item substituted. This may be indicated on the production record.

Documentation must be maintained for every occurrence the waiver is implemented.

Arkansas CNU will begin monitoring the implementation of waiver #100 on a monthly basis. SFAs will report supply chain disruptions throughout the school year. The CNU will conduct documentation reviews for districts that frequently require the use of the waiver. Districts that do not maintain sufficient documentation will be subject to corrective action.

SFAs may begin using this flexibility immediately.

If you have any questions related to this waiver or need additional information related to noncompetitive procurement options, please contact your Area Specialist at 501-324-9502.