



Food and Nutrition Service

Braddock Metro Center

1320 Braddock Place Alexandria VA 22314

DATE: April 23, 2020

CODE: COVID-19: Child Nutrition Response #18

SUBJECT: Nationwide Waiver of Local School Wellness Policy Triennial Assessments in the National School Lunch and School Breakfast Programs<sup>1</sup>

TO: Regional Directors  
Special Nutrition Programs  
All Regions

State Directors  
Child Nutrition Programs  
All States

<b>Issuing Agency/Office:</b>	FNS/Child Nutrition Programs
<b>Title of Document:</b>	Nationwide Waiver of Local School Wellness Policy Triennial Assessments in the National School Lunch and School Breakfast Programs
<b>Document ID:</b>	
<b>Z-RIN:</b>	
<b>Date of Issuance:</b>	April 23, 2020
<b>Replaces:</b>	N/A
<b>Summary:</b>	(1) FNS waives, for each State that elects to be subject to it, the requirement that local educational agencies (LEAs) conduct a triennial assessment of their local wellness policies by June 30, 2020, and instead allows LEAs to conduct their assessment by June 30, 2021. (2) This waiver applies to State agencies administering and LEAs operating the National School Lunch Program and School Breakfast Program. (3) This document relates to 42 U.S.C. 1758b(b) and 7 CFR 210.31(e)(2).
<b>Disclaimer:</b>	<b>The contents of this guidance document have the force and effect of law as authorized by the Families First Coronavirus Response Act (the Act) (P.L. 116-127).</b>

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 related to the novel coronavirus (COVID-19), the Food and Nutrition Service (FNS) is establishing a nationwide waiver to support schools unable to complete a triennial assessment of the local school wellness policies by June 30, 2020, due to school closures as a result of

<sup>1</sup> 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).

COVID-19. This waiver applies to State agencies that have local educational agencies (LEAs) administering the National School Lunch Program (NSLP) and/or School Breakfast Program (SBP).

Based on the July 1, 2017, implementation of the local school wellness policy regulations, the first triennial assessments are due June 30, 2020. However, FNS recognizes that in light of the current public health emergency, providing a revised deadline for completion of these requirements is vital to ensure LEAs can continue to focus on providing meals and meal supplements safely to children.

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

Section 9A(b) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1758b(b)) establishes requirements for local school wellness policies related to implementation, evaluation, and publicly reporting on progress of local school wellness policies. FNS regulations further require at 7 CFR 210.31(e)(2) that, at least once every three years, LEAs assess compliance with the local school wellness policy, and make assessment results available to the public.

Therefore, pursuant to the FFCRA authority cited above, FNS waives, for each State that elects to be subject to it, the above referenced statutory and regulatory requirements and provides a new first triennial assessment deadline of June 30, 2021. Accordingly, LEAs required to complete a triennial assessment by June 30, 2020, may choose to accept the new regulatory deadline and instead complete their first assessment by June 30, 2021. These LEAs then would submit a second triennial assessment by June 30, 2024. FNS recognizes that some LEAs may be prepared to complete their triennial assessment by June 30, 2020, and encourages those that are prepared to do so to complete their assessments on time.

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, it must notify its respective FNS Regional Office which will acknowledge receipt. State agencies should inform LEAs of the flexibilities provided by this waiver as quickly as possible. LEAs wishing to accept a new deadline must inform the State agency by June 30, 2020.

As required by section 2202(d) of the FFCRA, 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 LEAs, and
- A description of whether and how this waiver resulted in improved services to Program participants.

FNS stands ready to provide assistance to areas impacted by COVID-19 and intends to continue supporting access to nutritious meals during this public health emergency.

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,

A handwritten signature in black ink, appearing to read "Ang M Kline". The signature is written in a cursive, flowing style.

Angela M. Kline  
Director  
Policy and Program Development Division