

# SFSP PROPOSED RULE: PUBLIC COMMENT AND NEXT STEPS

Thursday, March 12  
1:30-2:00PM Eastern

#nokidhungry



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## SFSP PROPOSED RULE: PUBLIC COMMENT AND NEXT STEPS

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**Derrick Lambert**  
**Senior Manager**  
No Kid Hungry Center  
for Best Practices  
[dlambert@strength.org](mailto:dlambert@strength.org)



**Esubalew Dadi**  
**Senior Manager**  
No Kid Hungry Center  
for Best Practices  
[edadi@strength.org](mailto:edadi@strength.org)



**Monica Gonzales**  
**Associate Director**  
No Kid Hungry  
Federal Advocacy  
[mgonzales@strength.org](mailto:mgonzales@strength.org)

## TODAY'S AGENDA

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- USDA Proposed Rule: Background and Basics
- Proposed Waivers and Flexibilities for Codification
- Call to Action: Submit Public Comment
- Additional Resources
- Audience Q&A



## BACKGROUND: SFSP MEMORANDA RESCISSION

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- From 2002 to 2017, USDA Food and Nutrition Service (FNS) extended a number of nationwide program flexibilities through policy memoranda.
- In March 2018, the USDA Office of the Inspector General (OIG) released a report ([‘FNS Controls Over Summer Food Service Program’](#)), which concluded the following:
  - FNS waiver authority is limited to specific requests submitted by administering state agencies or program sponsors.
  - Nationwide changes to program regulations are subject to notice-and-comment rulemaking.
- Following the release of the report, USDA issued two rescission memoranda curtailing nationwide program flexibilities that had been in place:
  - [SFSP 06-2018](#), *Summer Food Service Program Memoranda Rescission: SFSP 01-2007 and SFSP 06-2015*, May 24, 2018.
  - [SFSP 01-2019](#), *Summer Food Service Program Memoranda Rescission, October 11, 2018*

The proposed rule will not have an impact on program operations during summer 2020. Additional waiver requests are required for those seeking extended flexibilities this summer.

## USDA SFSP PROPOSED RULE

- Proposed Rule: [Streamlining Program Requirements and Improving Integrity in the SFSP](#)
  - **Intent:** ‘...strengthen program integrity by codifying in regulations changes that have been tested through policy guidance and by streamlining requirements among Child Nutrition Programs.’
  - Released: January 23, 2020
  - 60 day comment period
  - Deadline for comment: Monday, March 23, 2020

**Review the proposed rule and submit public comment [here on the Federal Register.](#)**

<p><b>4064</b></p> <p><b>DEPARTMENT OF AGRICULTURE</b>  <b>Food and Nutrition Service</b>  <b>7 CFR Parts 210, 215, 220, 225, and 226</b>  <b>[FNS-2019-0034]</b>  <b>RIN 0584-AE72</b></p> <p><b>Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program (SFSP)</b></p> <p><b>AGENCY:</b> Food and Nutrition Service (FNS), USDA.</p> <p><b>ACTION:</b> Proposed rule.</p> <p><b>SUMMARY:</b> This rulemaking proposes to amend the Summer Food Service Program (SFSP) regulations to strengthen program integrity by codifying in regulations changes that have been tested through policy guidance and by streamlining requirements among Child Nutrition Programs. These changes update important definitions, simplify the application process, enhance monitoring requirements, and provide more discretion at the State agency level to manage program operations. The intended effect of this rulemaking is to clarify, simplify, and streamline</p>	<p>Meals Branch, Policy and Program Development Division, USDA Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, 703-305-2590.</p> <p><b>SUPPLEMENTARY INFORMATION:</b></p> <p><b>I. Background</b></p> <p>The Summer Food Service Program (SFSP) is authorized under section 13 of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1751. Its primary purpose is to provide free, nutritious meals to children from low-income areas during periods when schools are not in session.</p> <p>Throughout the history of the SFSP, the United States Department of Agriculture (USDA) has striven to provide good customer service to children in need during the summer months while maintaining accountability and integrity in program operations. The SFSP is one of the USDA programs that collectively are known as the Child Nutrition Programs. For the purposes of this proposed rule, Child Nutrition Programs also include the National School Lunch Program (NSLP), School Breakfast Program (SBP), Special Milk Program (SMP), and Child and Adult Care Food Program (CACFP). Among Child Nutrition</p>	<p>boost participation, and reduce unnecessary barriers to participation;</p> <ul style="list-style-type: none"> <li>• Listening sessions and webinars;</li> <li>• Partnerships with other government agencies, national nonprofit organizations, and faith-based communities; and</li> <li>• A 2004 notice in the <b>Federal Register</b> (69 FR 3874 Page 3874) soliciting public comments on how to improve the program.</li> </ul> <p>In response to the feedback received, USDA issued nationwide flexibilities and nationwide waivers of program regulations to facilitate sponsor and site participation and decrease paperwork burdens on both State agencies and sponsors—see following table entitled <i>FNS Policy Memoranda Addressed in This Rule</i>. While nationwide waivers of program regulations have largely supported improved program operations, the USDA Office of the Inspector General (OIG) audit entitled “FNS Controls Over the Summer Food Service Program” (27601-0004-41) prompted USDA to assess whether nationwide waivers issued through policy memoranda compiled with section 12(f) of the NSLA, which provides the Secretary with the authority to waive certain statutory and</p>
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# PROPOSED WAIVERS AND FLEXIBILITIES FOR CODIFICATION

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## First Week Site Visits

- Who is affected:
  - All sponsors with returning sites, school food authority sponsors, sponsors transitioning to SFSP from the NSLP and/or CACFP.
- Current policy:
  - All sponsors are required to conduct first site monitoring visit of all of their sites within first week of program operation.
  - Food service review must occur within the first four weeks of program operation.
- What is proposed:
  - Tiered approach to conducting first site monitoring visit: sponsors with 10 or fewer sites within 7 calendar days; sponsors with more than 10 sites within 14 calendar days; and sites that operate one week or less must conduct site monitoring during the period of operation.
  - Food service review may occur at the same time as the first site monitoring visit.

# PROPOSED WAIVERS AND FLEXIBILITIES FOR CODIFICATION

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## Offer Versus Serve (OVS)

- Who is affected:
  - Community-based ('non-food school authority') sponsors.
- Current policy:
  - Require SFAs to follow NSLP meal pattern requirements.
  - Non-SFAs are not allowed to utilize OVS meal service option.
- What is proposed:
  - Extend use of SFSP OVS meal pattern guidelines (instead of NSLP) to SFA sponsors.
  - Retain that only SFAs can utilize OVS option—discontinues the availability of 'Offer Versus Serve' (OVS) as a meal service option for non-food authority sponsors (non-SFAs).

## PROPOSED WAIVERS AND FLEXIBILITIES FOR CODIFICATION

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### Meal Time Restrictions

- Who is affected: All sponsors
- Current policy:
  - Require that 3 hours must elapse between the beginning of one meal service and beginning of another (except 4 hours between service of lunch and supper, when no snack is provided).
  - Impose duration of meal service requirement, limited to 2 hours for lunch or supper and 1 hour for all other type of meals. This does not apply for residential camps/sites.
- What is proposed:
  - Remove any meal time/duration restriction.
  - Redefine when meals can served by requiring that at least 1 hour must elapse between the end of one meal and beginning of another.
  - Allow state agencies to approve reimbursement of meals served outside of approved meal sites in case of unforeseen events.



# PROPOSED WAIVERS AND FLEXIBILITIES FOR CODIFICATION

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## Area Eligibility and Closed Enrolled Sites

- Who is affected: All sponsors
- Current policy:
  - Does not allow the use of area eligibility data to establish closed enrolled sites.
  - Requires that at least 50 percent of enrolled children qualify for FRP meals, as demonstrated by individual eligibility applications or other approved data.
  - Permits the use of CEP data to determine eligibility for closed enrolled sites.
- What is proposed:
  - Codify area eligibility as one of the ways closed enrolled sites can establish site eligibility to participate in SFSP.
  - Adjust frequency of establishing area eligibility from 3 to 5 years.

# PROPOSED WAIVERS AND FLEXIBILITIES FOR CODIFICATION

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## Off-site Consumption of Certain Food Items

- Who is affected: All sponsors
- Current policy:
  - Permit sponsors to allow children take fruits, vegetables and grain items off-site for later consumption.
  - Provide discretion for state agencies, case by case, to deny a sponsor from utilizing this option if there is safety and health concern.
- What is proposed:
  - Codify the flexibility that children can take fruit, vegetable and/or grain items off-site for later consumption.

## CALL TO ACTION: SUBMIT PUBLIC COMMENT BY MARCH 23

- Submit public comment to USDA no later than Monday, March 23
  - Use No Kid Hungry's [template submission letter](#)
  - Submit comments online or by mail
- Encourage program sponsors, your state agency, and anti-hunger advocates to submit public comments
  - Support proposed flexibilities
  - Request additional changes



The screenshot shows the Federal Register website for a proposed rule. At the top, it says "FEDERAL REGISTER The Daily Journal of the United States Government" with the National Archives logo. The rule title is "Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program (SFSP)". It is a Proposed Rule by the Food and Nutrition Service on 01/23/2020. A green button says "SUBMIT A FORMAL COMMENT" and a link says "Read the 42 public comments". Below, there is a "PUBLISHED DOCUMENT" section with "AGENCY: Food and Nutrition Service (FNS), USDA." and "ACTION:".

[Federalregister.gov](https://www.federalregister.gov): [Click here to read the proposed rule and submit public comment](#)

## ADDITIONAL RESOURCES

### SFSP Proposed Rule:

- Read the [proposed rule](#)
- February 26 webinar recording: Food Research and Action Center, featuring USDA  
[SFSP Proposed Rule: What You Need to Know](#)
- No Kid Hungry [template submission letter](#)

### SFSP Memoranda Rescission/Waiver Requests (for summer 2020):

- January 30 webinar: Summer Meals Policy Rescission Update: Summer 2020
  - [Recording](#) and [slide deck](#)

### No Kid Hungry template submission letter:

March 23, 2020

The Honorable Brandon Lipps  
Food and Nutrition Service  
United States Department of Agriculture  
3101 Park Center Drive  
Alexandria, VA 22302

**Re: Comments in Response to Proposed Rulemaking: Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program (SFSP); Docket Number: FNS-2019-0034, RIN:0584-AE72**

Dear Under Secretary Lipps:

On behalf of [Your Organization's Name Here], I am writing to provide comments on the Notice of Proposed Rulemaking issued by the United States Department of Agriculture ("USDA" or "Department") on Streamlining Program Requirements and Improving Integrity of the Summer Food Service Program ("SFSP").

[Boilerplate language about your organization here].

As an [organization, school, community leader] we believe that every child deserves the opportunity to learn and thrive. When kids are out of school, they no longer have consistent access to school meals. As a result, summer can be the hungriest time of year for many low-income children. This hunger can have a long-term impact on a child's health, ability to learn, and general well-being.

SFSP—established to ensure that low-income children continue to receive nutritious meals when schools are not in session—can protect against summer hunger and its impacts. The program, sponsored by public and non-profit organizations like schools, camps, and churches, provides free meals to all children at approved sites in areas with significant presence or concentration of low-income children. Although SFSP is a critical program, it is severely underutilized with only one child accessing SFSP for every seven that may need it.

Administrative burdens and duplicative programmatic requirements are key reasons that SFSP struggles to reach many hungry children during the summer. The proposed rule contains many

## AUDIENCE Q&A

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**Derrick Lambert**  
**Senior Manager**  
No Kid Hungry Center  
for Best Practices  
[dlambert@strength.org](mailto:dlambert@strength.org)



**Esubalew Dadi**  
**Senior Manager**  
No Kid Hungry Center  
for Best Practices  
[edadi@strength.org](mailto:edadi@strength.org)



**Monica Gonzales**  
**Associate Director**  
No Kid Hungry  
Federal Advocacy  
[mgonzales@strength.org](mailto:mgonzales@strength.org)