

## **USDA Flexibilities Granted in Response to Disaster Conditions in Louisiana – REVISED**

**UPDATED 9-2-2016**

The Louisiana Department of Education (LDOE), Division of Nutrition Support, submitted a request to USDA to grant flexibilities to assist participating Child Nutrition Programs in parishes subject to a Major Disaster Declaration pursuant to FEMA-4277-DR.

1. **LDOE requested a waiver of the meal pattern requirements** (milk requirements and meal component standards) for Child Nutrition Programs participating in the NSLP, SBP and CACFP in parishes subject to a Major Disaster Declaration pursuant to FEMA-4277-DR. **USDA allows service of meals without milk or with an alternate form of milk during emergency conditions for all three programs.** **Where possible, efforts should continue to be made to serve the full meal pattern.**

**FNS Response** - **FNS recognizes that meeting nutritional standards during a disaster is a challenge and approves meal pattern flexibilities for schools and child care institutions and facilities in the affected areas through September 30, 2016.**

2. **LDOE requested permission to extend the Community Eligibility Provision** (CEP) deadline for schools located in the affected area. LDOE is authorized to approve CEP applications received from schools throughout school year 2016-17 pursuant to the March 10, 2016 FNS Memorandum SP 30-2016, *Extension of the Deadline for Local Educational Agencies to Elect the community Eligibility Provision for School year 2016-17.*

**FNS Response** - **LDOE may extend the CEP application deadline without further approval from FNS.**

### 3. **Eligibility/Claiming**

#### a. **Non CEP Schools**

**LDOE requested that all schools in the parishes subject to a Major Disaster Declaration pursuant to FEMA-4277-DR be allowed to serve and claim meals at the free reimbursable rate for all students in attendance.**

**FNS Response** - **Under the authority of Section 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5141, FNS is granting the LDOE the flexibility to allow schools in affected parishes, which are not currently participating in CEP, to provide reimbursable meals at no charge to students and be reimbursed for all meals served at the Free Reimbursable Rate through September 30, 2016.**

#### b. **CEP Schools**

1. **CEP schools in the parishes subject to a Major Disaster Declaration pursuant to FEMA-4277-DR may serve and claim all meals at the Free Reimbursable Rate through September 30, 2016.**
2. To claim meals **beginning on October 1, 2016**, schools in parishes subject to a Major Disaster Declaration pursuant to FEMA-4277-DR, which have elected to participate in CEP for SY 2016-2017, may either

- **Revert to using pre-disaster claiming percentages** confirmed by the LDOE at the time of CEP election, or
- **Calculate a new ISP using data that reflects the current school population as of September 30, 2016** (i.e. the number of identified students relative to enrolled students). Calculating a new ISP is expected to capture any increases, as a result of the disaster, in Supplemental Nutrition Assistance Program participation and homeless youth served by programs established under the Runaway and Homeless Youth Act (42 U.S.C. 5701).
  - For schools in parishes subject to a Major Disaster Declaration pursuant to FEMA-4277-DR, which choose to continue on CEP for school year 2017-2018, a new ISP must be calculated using data reflective of April 1, 2017.

FNS would like to underscore that all the Program flexibilities in the August 18, 2016 response and the updates in this response are in effect only until **September 30, 2016**.

**3. LDOE requested permission to allow flexibility with regard to the time of meal service.**

***FNS Response-*** Per the authority provided in SP46-2014, **the State agency may approve adjustments to the meal service times.** LDOE will review and approve all requests for meal time flexibility.

**CLARIFICATION**

**\*\*\*\*\* If meals were served prior to the closing due to the flood, in non-CEP schools, then those would have been counted at the point of service according to the eligibility status of the students at that time and in turn would appear to have to be claimed at such eligibility status. Upon return to school, post flood, then all free status would begin not to go beyond September 30, 2016.**

**\*\*\*\*\* If meals were served prior to the closing due to the flood (pre-disaster), in CEP schools, then the CEP claiming percentage established for school year 2016-2017 (pre-disaster claiming percentages) would need to be applied. Upon return to school, post flood, then SFA may serve and claim all meals at the free reimbursement rate not to go beyond September 30, 2016.**

**\*\*\*\*\* Please include a comment on the claim stating that the claim was submitted in accordance with USDA flexibility granted to schools in disaster declared parishes.**



United States  
Department of  
Agriculture

Food and  
Nutrition  
Service

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DATE: May 19, 2014

MEMO CODE: SP 46-2014, CACFP 12-2014, SFSP 18-2014

SUBJECT: Disaster Response

TO: Regional Directors  
Special Nutrition Programs  
All Regions

State Directors  
Child Nutrition Programs  
All States

This memorandum supersedes SP 25-2012, CACFP 12-2012, SFSP 10-2012, *Disaster Response* and provides an overview of ways State agencies, school food authorities (SFAs) participating in the National School Lunch (NSLP) and School Breakfast Programs (SBP), institutions participating in the Child and Adult Care Food Program (CACFP), and sponsors participating in the Summer Food Service Program (SFSP) can respond to situations resulting from damage or disruptions due to natural disasters such as hurricanes, tornadoes, and floods as well as other exceptional emergency situations or man-made disasters. State agencies should review the avenues available to prepare and plan before a disaster strikes so responses can be as swift as possible.

## **ELIGIBILITY FOR FREE MEALS AND DISASTER BENEFITS**

### *Children Experiencing Homelessness*

Children residing in or evacuated from disaster areas may be determined homeless under the McKinney-Vento Homeless Assistance Act. These children are categorically (automatically) eligible for free meals in the Child Nutrition Programs (CNPs). A school district's homeless coordinator makes a determination of homelessness and provides a list of all children determined homeless due to a disaster situation. The SFA, institution, or sponsor must certify these children for free meals.

In cases where a household from a designated disaster area moves in with another household, the homeless liaison may determine the displaced individuals homeless under the McKinney-Vento Homeless Assistance Act. Displaced children and adult participants in CACFP are automatically eligible for free meals in centers and tier I meals in family day care homes, even if they are temporarily residing with another family. The host family may include the displaced family members and any income provided to them when applying for free or reduced price meals.

Institutions and sponsors that require eligibility information can receive certification of the participant's homeless status from the agency that assisted with the evacuation or that is providing shelter. If the child is not residing in an emergency shelter, the institution should have an adult living with the child complete an income eligibility form indicating that the child is homeless. No further information is required to certify the child's eligibility.

#### *Disaster Benefits from the Supplemental Nutrition Assistance Program (SNAP)*

Children in households receiving Disaster Supplemental Nutrition Assistance Program (D-SNAP) benefits are categorically eligible for free meals in the CNPs. Certification of these children may be accomplished through direct contact with the SNAP agency or by an application submitted by a household with a case number.

#### *Emergency Shelters in the Child and Adult Care Food Program*

Emergency shelters that provide temporary housing to displaced families are eligible to participate in CACFP. Where significant numbers of persons are being temporarily housed, State agencies may designate any appropriate facility as an emergency shelter, and may waive institution application requirements in these situations. When State agencies have designated a facility as an emergency shelter, all children through age 18 may receive up to three free meals (breakfast, lunch, and supper) each day.

An "appropriate facility" may include a school or an institution which, although it is not providing actual shelter, is nevertheless providing meals to displaced families who are being temporarily housed elsewhere, in locations that may not have the means to provide meal services to these temporary residents.

#### *Certification by School Officials*

School officials may submit applications on behalf of children they know to be homeless and therefore categorically eligible for free meals. See Part 3 of the Eligibility Manual for School Meals for additional information on this option.

#### *Duration of Eligibility*

Children certified for free or reduced price meal benefits because of a disaster situation are no longer *temporarily* approved because households are no longer required to report changes in income or household size. Their eligibility, including eligibility based on homeless status or receipt of D-SNAP benefits, remains in effect for the entire school year and up to 30 days in the next school year. CACFP participants remain eligible for free meal benefits for 12 months.

*Carry-Over of Previous Year's Eligibility by SFAs*

The 30-day carry-over of the previous year's eligibility for school meals is based on operating days. If schools already in session were temporarily closed, or schools delayed opening at the beginning of the school year, the SFA determines the 30-day carry-over period using the number of days schools were actually operating. A child's prior year free or reduced price eligibility continues until eligibility status for the current school year is established or upon the completion of 30 operating days, whichever is less.

For example, school began on Monday, August 29, 2014, and the foodservice was operating for the five days school was in session. Over the weekend, the school was damaged by hurricane-force winds and rain and was closed until September 19. If the school food service did not operate on any days during that time period because school was closed, the remaining 25 days of the carry-over period would start on September 19 and would end on October 21.

**USING THE SUMMER FOOD SERVICE PROGRAM (SFSP) OR SEAMLESS SUMMER OPTION (SSO) IN DISASTER SITUATIONS**

State agencies, SFAs, and sponsors may determine that operating SFSP or SSO sites would be useful when schools or day care facilities must remain closed due to disaster situations. SFSP regulations allow expedited approval of feeding sites during an emergency. Organizations with current agreements to operate the SFSP may be approved to open emergency feeding sites (7 CFR 225.6(c)).

State agencies should encourage sponsors to plan for emergency situations in advance to ensure a rapid response. State agencies should pre-approve sponsors to operate emergency feeding sites during unanticipated school closures during their initial application process. For more information on participation in SSO, please refer to the SSO questions and answers at: <http://www.fns.usda.gov/sites/default/files/SP39-2014os.pdf>

**USING USDA FOODS IN DISASTERS**

Please refer to the Food Distribution Program's website for information about using and accounting for USDA Foods in disaster situations:  
<http://www.fns.usda.gov/fd-disaster/food-distribution-disaster-assistance>

## **FLEXIBILITIES THAT REQUIRE STATE AGENCY OR FOOD AND NUTRITION SERVICE (FNS) APPROVAL**

CNP policies are designed to allow flexibility and support continuation of meal benefits to participants in disaster areas. There are existing flexibilities in meal service requirements and administrative procedures that make it easier for States, SFAs, institutions, and sponsors to operate and respond to disaster situations.

### *Meal Component and Meal Service*

Flexibility is allowed with regard to time of meal service and use of offer versus serve. These modifications may be made with State agency approval.

If emergency conditions exist that prevent schools, institutions, or sponsors from obtaining fluid milk, the State agency may allow service of meals without milk or with an alternate form of milk, such as canned or dry milk (7 CFR 210.10(d)(2)(i); 7 CFR 225.16(f)(6); 7 CFR 226.20(e)).

If changes to other meal component requirements are needed, SFAs, institutions, and sponsors should consult with their State agencies. For the school meals programs, 7 CFR 210.10 (m)(4) allows SFAs, with approval from FNS, to serve meals that do not meet the menu planning or meal pattern requirements in disaster situations. In CACFP, 7 CFR 226.20 (i) allows special variations in the food components of meals, with FNS approval.

### *Accountability and Verification Procedures*

In disaster situations, the FNS Regional Offices (ROs) are authorized to allow State agencies, SFAs, institutions, and sponsors to submit claims beyond the 60/90-day requirement. Claims submitted outside of the 60/90-day requirement, as a result of a disaster, are not subject to the one-time exception for late submissions.

If SFAs, institutions, or sponsors need to reconstruct unsubmitted claims due to loss of current records, they must consult with their State agencies. State agencies may approve such requests in consultation with their FNS ROs.

When records required for review purposes, such as paid claims, approved applications and production records, are destroyed, SFAs, institutions, or sponsors should inform their State agencies of the circumstances and dates of the losses, and the types and approximate age of the records that were lost. State agencies should note the losses in their records for the purpose of any future administrative reviews and audits.

SFAs, institutions, and sponsors that are operational, but unable to maintain normal accountability systems, including counting, claiming, and monitoring, must contact their State agencies regarding how to proceed. In these situations, waiver requests must be submitted to FNS for approval.

With regard to verification under NSLP, the State agency may approve deadline extensions from November 15 through December 15 (7 CFR 245.6a(b)(2)). Extensions beyond that date must be approved by FNS. In addition, FNS may approve alternatives for sample size and selection when the SFA has had a disaster (7 CFR 245.6a(c)(6)).

#### *CACFP, SFSP, and SSO Site Eligibility*

Based on the significant needs of each community, FNS ROs may waive the requirements under CACFP, SFSP, and SSO that sponsors document that each site is serving an area in which poor economic conditions exist (7 CFR 225.6(c)(2); 7 CFR 226.2 (tier I day care home)). These requirements may be waived for existing eligible sites located in the area damaged by a natural disaster that must relocate to areas that are not eligible based on school or census data.

Additionally, State agencies may waive the requirement that, during an unanticipated school closure, SFSP sites may not be located at school sites (7 CFR 225.6(d)(1)(iv)). Although schools may be closed, some school buildings may be unaffected by the disaster and may be approved as a location for emergency feeding.

#### *Other Exceptional Emergency Situations or Man-made Disasters*

Other exceptional emergency situations or man-made disasters, such as human pandemic or chemical plant explosions, may impact the ability of schools, institutions, and sponsors to continue normal program operations. In this circumstance, FNS may approve flexibilities to accommodate the needs of severely impacted areas. Flexibilities are provided on a case-by-case basis and will require justification from the requesting State agency. Changes to program operation or administration must be approved by FNS prior to implementation.

State agencies are asked to distribute this Memorandum to Program operators immediately. SFAs should contact their State agencies for additional information. State agencies may direct any questions concerning this guidance to the appropriate FNS RO.

**Original Signed**

Cynthia Long  
Deputy Administrator  
Child Nutrition Programs



Food and  
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DATE: August 18, 2016

SUBJECT: Request for Flexibilities in Response to Disaster Conditions in Louisiana

TO: Mr. William Ludwig  
Regional Administrator  
Southwest Regional Office

This letter is in response to the August 16, 2016, request from the Louisiana Department of Education (LA DOE) to assist schools and child care institutions and facilities in parishes subject to a Major Disaster Declaration pursuant to FEMA-4277- DR in implementing flexibilities in meal pattern requirements for the National School Lunch Program (NSLP), School Breakfast Program (SBP), and Child and Adult Care Food Program (CACFP) and meal claiming for schools. After careful consideration, FNS will grant approval for the three flexibilities in the LA DOE request for the affected schools and child care institutions and facilities.

Firstly, LA DOE requested a waiver of the meal pattern requirements found at 7 CFR 210.10 for the NSLP, 7 CFR 220.8 for the SBP, and 7 CFR 226.20 for the CACFP. Specifically, they are requesting exemptions for certain milk requirements and meal component standards. Program regulations at 7 CFR 210.10(d) (2) and (m)(4), 220.8(d), 226.20(e) and (i), and FNS Policy Memorandum SP 46-2014, CACFP 12-2014, SFSP 18-2014, *Disaster Response*, allow service of meals without milk or with an alternate form of milk during emergency conditions for all three programs. In addition, State agencies may allow service of meals that do not meet the menu planning or meal pattern requirements for NSLP, SBP, or CACFP in disaster situations, with FNS approval. FNS recognizes that meeting nutritional standards during a disaster is a challenge and approves meal pattern flexibilities for schools and child care institutions and facilities in the affected areas through September 30, 2016.

Secondly, LA DOE requested permission to extend the Community Eligibility Provision (CEP) deadline for schools located in the affected area. LA DOE is authorized to approve CEP applications received from schools throughout School Year 2016 – 2017 pursuant to the March 10, 2016 FNS Memorandum SP 30-2016, *Extension of the Deadline for Local Educational Agencies to Elect the Community Eligibility Provision for School Year 2016-17*. Consistent with that memorandum, LA DOE may extend the CEP application deadline without further approval from FNS.

Thirdly, the State requested that all schools in the parishes subject to a Major Disaster Declaration pursuant to FEMA-4277- DR be allowed to serve and claim meals at the Free Reimbursable Rate for all students in attendance. This request cites challenges in the ability of parishes in the major disaster area to make eligibility determinations in accordance with program requirements and thus would affect accurate counting and claiming of meals. Similar to the flexibility extended to schools in affected parishes

following Hurricane Katrina and to schools in New York affected by Hurricane Sandy under the authority of Section 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5141, FNS is granting the LA DOE the flexibility to allow schools in affected parishes, which are not currently participating in CEP, to provide reimbursable meals at no charge to students and be reimbursed for all meals served at the Free Reimbursable Rate through September 30, 2016. Schools that already participate in CEP, as well as those newly approved for CEP, will continue to provide free meals to all students for School Year 2016 – 2017 at their approved claiming rate.

The LA DOE must monitor the parishes' progress in resuming normal food service and administrative functions of the affected schools and CACFP institutions and facilities and notify FNS if a request for an extension of the flexibilities approved in this memorandum is needed for affected operations beyond September 30, 2016. Please ensure that LA DOE submits an extension request to your office for assessment and approval and that all the necessary information is submitted to the National Office no later than September 23, 2016. This will ensure that FNS has adequate time to consider and respond to the request.

We appreciate the efforts of the Louisiana Department of Education to continue operating the Child Nutrition Programs during this challenging time. Should you have any questions or concerns, please contact Andrea Farmer, Chief, Community Meals Branch at 703-305-2470 or Tina Namian, Chief, Schools Branch at 703-305-2634.



*for* Angela M. Kline  
Director  
Policy and Program Development Division  
Child Nutrition Programs



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DATE: August 22, 2016

SUBJECT: Update to Response to Request for Flexibilities in Response to Disaster Conditions in Louisiana

TO: Mr. William Ludwig  
Regional Administrator  
Southwest Regional Office

This letter further responds to the August 16, 2016, request from the Louisiana Department of Education (LA DOE) to assist schools and child care institutions and facilities in parishes subject to a Major Disaster Declaration pursuant to FEMA-4277-DR. FNS responded to LA DOE's request on Thursday, August 18, 2016, by granting approval for the three flexibilities in the LA DOE request for the affected schools and child care institutions. Subsequently, LA DOE raised additional questions related to those flexibilities. After careful consideration, this letter clarifies how schools in the parishes subject to a Major Disaster Declaration pursuant to FEMA-4277-DR, which have elected to participate in the Community Eligibility Provision (CEP) for School Year 2016-2017, may calculate their identified student percentages (ISPs), given significant changes in their student populations resulting from the disaster.

- (1) CEP schools in the parishes subject to a Major Disaster Declaration pursuant to FEMA-4277-DR may serve and claim all meals at the Free Reimbursable Rate through September 30, 2016.
- (2) To claim meals beginning on October 1, 2016, schools in parishes subject to a Major Disaster Declaration pursuant to FEMA-4277-DR, which have elected to participate in CEP for SY 2016-2017, may either (1) revert to using pre-disaster claiming percentages confirmed by the LA DOE at the time of CEP election, or (2) calculate a new ISP using data that reflects the current school population (i.e., the number of identified students relative to enrolled students). Calculating a new ISP is expected to capture any increases, as a result of the disaster, in Supplemental Nutrition Assistance Program participation and homeless youth served by programs established under the Runaway and Homeless Youth Act (42 U.S.C. 5701).
- (3) For schools in parishes subject to a Major Disaster Declaration pursuant to FEMA-4277-DR, which choose to continue on CEP for school year 2017-18, a new ISP must be calculated using data reflective of April 1, 2017.

FNS would like to underscore that all the Program flexibilities in the August 18, 2016 response and the updates in this response are in effect only until September 30, 2016. The LA DOE must monitor the parishes' progress in resuming normal food service and administrative functions of the affected schools and CACFP institutions and facilities and notify FNS if a request for an extension of the flexibilities approved in this memorandum is needed for affected operations beyond September 30, 2016. Please ensure that LA DOE

Mr. William Ludwig  
Page 2

submits an extension request to your office for assessment and approval and that all the necessary information is submitted to the National Office no later than September 23, 2016. This will ensure that FNS has adequate time to consider and respond to the request.

We appreciate the efforts of the Louisiana Department of Education to continue operating the Child Nutrition Programs during this challenging time. Should you have any questions or concerns, please contact Andrea Farmer, Chief, Community Meals Branch at 703-305-2470 or Tina Namian, Chief, Schools Branch at 703-305-2634.



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