



Food and Nutrition Service

DATE: October 23, 2020

Braddock Metro Center

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1320 Braddock Place Alexandria, VA 22314

SUBJECT: Fresh Fruit and Vegetable Program Operations for SY 2020-21 during COVID-19¹

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:	Fresh Fruit and Vegetable Program Operations for SY 2020-21 during COVID-19
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Date of Issuance:	October 23, 2020
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Summary:	(1) This memorandum provides clarification on questions related to the operation of the Fresh Fruit and Vegetable Program (FFVP) during school building closures and alternative Child Nutrition Program operations in all States and school food authorities (SFAs) due to the continued public health emergency associated with the novel coronavirus (COVID-19). (2) This memorandum applies to SFAs operating the FFVP. (3) This document relates to section 19 of the National School Lunch Act (NSLA) [42 U.S.C. 1769a].
Disclaimer:	The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

This memorandum includes questions and answers intended to provide clarification on the operation of the Fresh Fruit and Vegetable Program (FFVP) during implementation of

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

alternative Child Nutrition Program operations throughout school year (SY) 2020-2021 due to the continued novel coronavirus (COVID-19) public health emergency.

The Secretary has broad authority for the administration of the FFVP, as permitted under section 19 of the National School Lunch Act (NSLA) [42 U.S.C. 1769a]. FNS recognizes that local Program operators are practicing social distancing, and working to limit the amount of time children spend congregating at meal and snack service sites. Therefore, based on the exceptional circumstances of this public health emergency due to the novel coronavirus, and pursuant to existing statutory authority, FNS is exercising its enforcement discretion to allow the following flexibilities in the operation of the FFVP. Please note, these flexibilities are effective for school year 2020-2021, and remain in effect until June 30, 2021.

FNS appreciates the exceptional effort of State agencies and local Program operators working to meet the nutritional needs of child participants during a challenging time. State agencies are reminded to distribute this memorandum to Program operators immediately. Program Operators should direct any questions concerning this guidance to their State agency. State agencies with questions should contact the appropriate FNS Regional Office.

A handwritten signature in dark ink, appearing to read "Ang M Kline". The signature is fluid and cursive, with the first name "Ang" being the most prominent.

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

Questions and Answers

1. May Fresh Fruit and Vegetable Program (FFVP) operators provide the fruit or vegetable service outside of a regular school day?

Yes. Under this public health emergency and given widespread school building closures and implementation of alternate instructional models that allow for social distancing, elementary schools operating FFVP may serve fresh fruits and vegetables to students at the time the operators determine to be appropriate. A waiver from FNS is not necessary to exercise this flexibility.

2. May FFVP operators provide the fruit or vegetable service in a non-congregate setting?

Yes. Under this public health emergency and given widespread school building closures and implementation of alternate instructional models that allow for social distancing, elementary schools operating FFVP may serve fresh fruits and vegetables in a non-congregate setting, including through home delivery. A waiver from FNS is not necessary to exercise this flexibility.

3. May the FFVP fruit or vegetable service be provided at the same time as another Child Nutrition Program meal service?

Yes. Under this public health emergency and given widespread school building closures and implementation of alternate instructional models that allow for social distancing, elementary schools operating FFVP may provide the FFVP service alongside other Child Nutrition Program meals. A waiver from FNS is not necessary to exercise this flexibility. This means that elementary schools that are operating other Child Nutrition Programs, such as the Summer Food Service Program (SFSP) or the National School Lunch Program (NSLP) Seamless Summer Option (SSO), may provide FFVP foods along with SFSP or SSO meals at the same time.

4. May elementary schools operating FFVP allow parents or guardians to pick up the FFVP food from the site or does the child have to be in attendance?

Elementary schools offering FFVP foods in a non-congregate setting may not provide those foods to parents or guardians unless they are accompanied by their child(ren). Section 19(b) of the Richard B. Russell National School Lunch Act (NSLA) requires schools participating in the FFVP to make fresh fruits and vegetables available “to students.” Because the Families First Coronavirus Response Act (P.L. 116-127) did not include FFVP as a “qualified program,” the nationwide waiver allowing parents to pick up meals for children at non-congregate sites does not apply to FFVP. An SFA may request a waiver allowing schools to provide FFVP foods to parents and

guardians. Any waiver request would be processed according to the requirements of Section 12(l) of the NSLA.

5. What quantity of FFVP fruits and vegetables may be served?

Elementary schools operating FFVP that are providing multiple days of meals at one time also may provide multiple servings of FFVP foods at one time. For example, sites may permit children to pick up a week's supply of FFVP fruits and vegetables at a time. The FFVP serving for a week must reflect what would be served to an individual student during a school week.

6. Are FFVP operators required to provide an educational component with the FFVP service?

No. While elementary schools operating the FFVP are encouraged to provide a nutrition education lesson with the FFVP service, FNS recognizes that a nutrition education lesson is not practical during this public health emergency.

7. May an FFVP operator donate its produce to another school or a food bank?

FFVP foods may be served only at elementary school sites currently approved to operate FFVP. However, if fresh produce cannot be used and would need to otherwise be disposed of, the produce may be donated.

8. Can elementary schools that currently participate in FFVP provide fruits and vegetables to any child attending an SFSP/SSO open site at that school?

Yes. FFVP foods may only be provided at elementary schools currently approved to operate the program. However, if the elementary school is operating an open site, FFVP foods may be provided to any children attending the site.

9. May FFVP funds be used towards purchasing fresh fruits and vegetables for SFSP or SSO meals?

No, FFVP funds may not be used to purchase fruits and vegetables for the SFSP and SSO. However, FFVP elementary schools operating SFSP and SSO may provide FFVP foods as a separate benefit, along with the service of SFSP and SSO meals. (See Question 3).

10. If an FFVP elementary school is not serving meals during the school closures or implementation of alternate instructional models that allow for social distancing, may the school food authority (SFA) serve the FFVP foods from a high school or alternative location where SFSP/SSO meals are being served?

By law, FFVP foods may only be served at participating FFVP elementary schools. An SFA with FFVP elementary schools that are not operating must request a waiver in order to be able to serve FFVP foods at alternative locations, including high schools. Any waiver request would be processed according to the requirements of Section 12(l) of the National School Lunch Act.

11. If FFVP schools are delivering SFSP/SSO meals to households, can the FFVP foods be provided to all children in the household regardless of age?

Yes. SFAs operating FFVP at open sites may provide FFVP foods to any child attending the site (see Question 8). Similarly, prior SFSP/SSO QAs have allowed delivered meals to be served to all children residing in the household.

12. If an elementary school that is participating in FFVP continues to serve fruits and vegetables during the current public health emergency, can FFVP funds originally awarded to other participating schools that have ceased operations be reallocated for use at the remaining open school(s)?

Yes. States may reallocate unobligated, unexpended FFVP funds from closed elementary schools to other participating FFVP elementary schools that are continuing operations. The required per-student funding level of \$50-\$75/year still applies, so for operational simplicity, it is recommended (though not required) that consolidations of FFVP funds also include a similar consolidation of the student populations being served.

For example, Elementary schools A, B, and C participate in FFVP. Elementary schools B and C suspend their foodservice due to the public health emergency. The State agency reallocates elementary school B and C's unexpended, unobligated FFVP funds to elementary school A, which will continue FFVP operations. Elementary school A will now offer FFVP snacks to the students from schools B and C, in addition to its regular student population.

13. May an eligible FFVP elementary school that is not able to participate as a meal site for SFSP/SSP during COVID-19 operations, purchase produce and provide it to an alternate meal site in the area?

No. FFVP elementary schools that are not open during COVID-19 may not purchase produce with FFVP funds and then provide it to an alternate meal site. However, as noted in Question 12 above, the State agency may permit a reallocation of funds of unobligated, unexpended FFVP funds from closed elementary schools to other participating FFVP elementary schools that are serving as meal sites. Additionally, as noted in Question 10 above, an SFA with FFVP elementary schools that are not operating may request a waiver in order to be able to serve FFVP foods at alternative locations. Any waiver request would be processed according to the requirements of Section 12(l) of the National School Lunch Act.