



Food and
Nutrition
Service

DATE: August 21, 2020

Braddock
Metro Center

MEMO CODE: SP 23-2020

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
Document ID:	
Z-RIN:	
Date of Issuance:	August 21, 2020
Replaces:	N/A
Summary:	(1) This memorandum provides clarification on questions related to the operation of the Fresh Fruit and Vegetable Program (FFVP) during school building closures in all States and school food authorities during the novel coronavirus (COVID-19) public health emergency. (2) This memorandum applies to school food authorities operating the Fresh Fruit and Vegetable Program. (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 the novel coronavirus (COVID-19) public health emergency.

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).

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 children 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 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
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, 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, 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, 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.

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 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. A school food authority (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 National School Lunch Act.

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. If an FFVP elementary school is not serving meals during school building closures, 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.

9. If an FFVP school participating in SY 2019-2020 is not selected to participate in FFVP for SY 2020-2021, can they expend their remaining funds through the fall and then stop participating?

No. If a previously participating FFVP school is not selected for the new school year, they cannot expend any of their remaining FFVP funds in the new school year starting July 1, 2020. The funds will be recovered during the year-end closeout process.

10. May the period of performance to obligate funds for the FY 2020 FFVP be extended beyond September 30, 2020?

No. State agencies and SFAs are still required to obligate all allocated FY 2020 funds by the last day of the fiscal year (September 30, 2020). Any unobligated, unexpended funds that remain after this date will be recovered and reallocated in a future year as part of the normal FFVP funding process.

11. May States provide flexibility to local program operators on established claims deadlines in the Fresh Fruit and Vegetable Program (FFVP) without first requesting a waiver?

Yes. States do not require a waiver to provide this flexibility to local Program operators, and may exercise their discretion in granting extensions they deem reasonable and appropriate. However, States are reminded that all Federal financial reporting requirements (quarterly SF-425) remain in effect, and that any unused FY 2020 FFVP funds will be recovered and reallocated on the last day of the fiscal year (September 30, 2020).