



Food and
Nutrition
Service

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July 2, 2021

Mr. Adrian Hinson
Sr. Restaurant Program Planner
HQ AAFES, Services & Food Directorate
Exchange Restaurant, Theater & Hospitality Division
3911 S. Walton Walker Blvd
Dallas, TX 75236-1598

Dear Mr. Hinson,

This letter is in response to the Department of Defense (DoD) and Department of Defense Education Activity's (DoDEA) request of April 20, 2021 requesting an extension to operational flexibilities available to DoD during the novel coronavirus (COVID-19) pandemic. DoDEA contacted the Food and Nutrition Service (FNS) seeking guidance for the Military Exchanges (Army and Air Force (AAFES), Navy (NEX), and Marine Corps (MCX) Exchanges) to provide an extension of claim reimbursement for free meals to all students via the National School Lunch Program (NSLP), School Breakfast Program (SBP), and the NSLP Seamless Summer Option (SSO).

In making this request, DoDEA and the Military Exchanges asserted that duty stations located overseas continue to experience the same hardships as stateside families. To maintain children's access to meals and support a successful recovery from the COVID-19 pandemic, DoDEA and the Military Exchanges seek to extend the flexibilities described above through school year 2021-2022. FNS will grant DoDEA's request through its existing legal authorities, as described below.

DoD's Authority to operate the Seamless Summer Option through the Military Exchanges

In June 2020, FNS determined that DoD overseas schools may elect SSO and receive Federal reimbursement for such operations under existing statutory authority granted by the National School Lunch Act (NSLA) and Child Nutrition Act (CNA). In April 2021, USDA issued pandemic flexibilities for schools and day care facilities for school year 2021-2022 to support safe reopening and healthy, nutritious meals nationwide. Included in this suite of nationwide waivers were flexibilities allowing schools to elect SSO and receive reimbursements for meals and snacks at the higher rates paid under the Summer Food Service Program (SFSP).

This letter affirms that DoD may continue to operate SSO as part of the National School Lunch Program (NSLP) that it operates for overseas schools. Pursuant to Section 20(a) of the NSLA and CNA (42 USC 1769b, 1789), the Secretary of Agriculture "shall make available to DoD the same payments and commodities as are provided to States for schools participating in the National School Lunch Program/School Breakfast Program." Because SSO is part of the NSLP (as outlined in

Sec. 13(a)(8) and (b)(1)(C) of the NSLA), and since FNS reimburses domestic schools for their respective SSO meals, then DoD may receive the same reimbursements for its own SSO programming.

FNS' authority to provide DoD Overseas with additional reimbursements

Pursuant to the waiver authority granted under Section 2102(b) of the Families First Coronavirus Response Act (P.L. 116-127) (the Act), FNS has granted waivers of area eligibility requirements that would normally restrict operation of the SSO to areas where at least 50 percent of NSLP participants are eligible for free or reduced price meals, as well as the restriction on SSO operations to summer or school vacation food service. An additional waiver made available for school year 2021-2022 allows SSO meals and snacks to be reimbursed at the higher rates normally paid under the SFSP. FNS is issuing these waivers in response to changing economic and operational conditions due to COVID-19.

DoD overseas schools, DoDEA and/or the Military Exchanges are not eligible for a FFCRA waiver because they do not meet the specific definitions of “state” or “eligible service provider” as described in Sec. 12(d) of the NSLA. However, because the FFCRA waivers made available by FNS for school year 2021-2022 have effectively changed the level of benefits received by program operators in the United States, FNS will similarly adjust the payments and commodities made available to DoD overseas schools per Section 20 of the NSLA and CNA.

Therefore, consistent with the level of support offered in States and U.S. Territories for SY 2021-2022, DoD through the Military Exchanges may claim and receive reimbursement for all lunch and breakfast meals and snacks served by overseas schools sites at the SFSP reimbursement rate for rural or self-prep sites. This represents a further extension of the flexibilities already available to DoD, as SFSP rates were not previously available to these overseas school sites. DoD through the Military Exchanges retain full discretion in determining whether this flexibility offered by USDA will apply to any or all such overseas school sites. These flexibilities are only available through June 30, 2022.

In using this flexibility, DoDEA and the Military Exchanges must assess the necessity and appropriateness of providing free meals to all students at each of its overseas school sites, and are expected to ensure the following Program integrity requirements are met:

- Accurate counts of meals served at (or delivered from) each eligible site for each meal service.
- Limiting the payments necessary to implement this flexibility to the period through June 30, 2022. This is consistent with COVID-19 flexibilities granted to States.

FNS appreciates DoD and DoDEA, and the Military Exchanges' commitment to providing for the nutritional needs of children in military and service-connected families throughout this challenging time. If you have questions, please contact FNS

National Office.

Sincerely,

Sarah Smith-Holmes
Acting Deputy Administrator
Child Nutrition Programs