

United States Department of Agriculture

Food and
Nutrition
Service

October 13, 2020

Braddock
Metro
Center

AAFES HQ

ATTN: Food Service, Mr. Adrian Hinson
3911 S. Walton Walker Blvd.
Dallas, TX 75236-15981320
Braddock
Place
Alexandria
VA 22314

Dear Mr. Hinson,

This letter is in response to the Department of Defense (DoD) and Department of Defense Education Activity's (DoDEA) request of September 2, 2020, regarding operational flexibilities available to DoD during the novel coronavirus (COVID-19) pandemic. DoDEA contacted the Food and Nutrition Service (FNS) seeking a waiver for the Military Exchanges (Army & Air Force (AAFES), Navy (NEX), & Marine Corps (MCX) Exchanges) to provide and 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) under the authority granted by (P.L. 116-127), the Families First Coronavirus Response Act (FFCRA).

In making these requests, DoDEA and AAFES asserted that the fact their duty stations are located overseas should not be a determining factor for receiving free school meals for the families they serve. They also observed that military families are experiencing the same hardships as stateside families. Furthermore, DoDEA maintains that while swift and dramatic action has been taken to physically close schools and implement distance learning, these schools are experiencing operational challenges stemming from the requirement to continue using standard counting and claiming procedures. To maintain children's access to meals, and to support military families during the COVID-19 pandemic, DoDEA and AAFES sought the flexibilities described above through a FFCRA waiver. While FNS cannot grant DoDEA and AAFES waiver relief under FFCRA, it is able to substantively fulfill both of DoDEA's requests through existing legal authorities.

DoD's Authority to Operate the Seamless Summer Option through AAFES

FNS has determined that DoD overseas schools may elect SSO and receive Federal reimbursements for such operations under the existing statutory authority granted by the National School Lunch Act (NSLA) and Child Nutrition Act (CNA).

DoD may 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 Schools 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 Summer Food Service Program and NSLP SSO to areas where at least 50 percent of NSLP participants are eligible for free or reduced price meals. FNS is issuing these waivers in response to changing and detrimental economic 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 the NSLA. However, because the FFCRA waivers of area eligibility requirements 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, effective September 1, 2020, DoD through AAFES may claim and receive reimbursement at the Federal free rate for all lunch and breakfast meals and snacks served by overseas schools sites. DoD through AAFES retain full discretion in determining whether this flexibility offered by USDA will apply to any or all such overseas school sites. In addition, DoD through AAFES may retroactively claim free meals at these sites effective April 1, 2020. For any such retroactive claims, DoD through AAFES must fully reimburse affected households for all meal payments that were made by those households during the applicable claiming period(s). These flexibilities are only available through June 30, 2021.

In using this flexibility, DoDEA and AAFES must assess the necessity and appropriateness of providing free meals to all students at each of its overseas school sites, and is 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, 2021. This is consistent with COVID-19 flexibilities granted to States.

FNS appreciates DoD, 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 Yolly Smith by email at yolly.smith@usda.gov.

Sincerely,

Cynthia Long
Deputy Administrator
Child Nutrition Programs

David Burr
Chief Financial Officer
Financial Management

cc: Mr. Michael Troyano, DoDEA