# Superintendent’s Memo #126-20

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**COMMONWEALTH of VIRGINIA   
Department of Education**

DATE: May 29, 2020

TO: Division Superintendents

FROM: James F. Lane, Ed.D., Superintendent of Public Instruction

## SUBJECT: COVID-19 Waiver Updates

The purpose of this memo is to provide an update on the latest COVID-19 waivers for the National School Lunch Program (NSLP), School Breakfast Program (SBP), At-Risk portion of the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), and the Seamless Summer Option (SSO).

### Waiver of the Local Wellness Policy Triennial Assessment

Section 9A(b) of the Richard B. Russell National School Lunch Act establishes requirements for local wellness policies related to implementation, evaluation, and reporting on the progress of local school wellness policies. Regulations at 7 CFR 210.31(e)(2) require local education agencies (LEAs) to assess compliance with their local school wellness policies and make the assessment results available to the public at least once every three years.

The first triennial assessment was due on June 30, 2020; however, the U.S. Department of Agriculture (USDA) is waiving and extending the deadline. The first assessment of the local wellness policy is now due June 30, 2021. LEAs that are prepared to complete their triennial assessment by June 30, 2020 are encouraged to do so.

### Waiver of the Food Service Management Company (FSMC) Contract Duration

Regulations at 7 CFR 210.16 (d) state LEAs may contract with a FSMC for no longer than one year, with options for a yearly renewal not to exceed four additional years. The USDA recognizes that under the current pandemic, LEAs may not be able to conduct a competitive procurement process for a new FSMC contract. FSMC contracts that may expire by or around June 30, 2020, may be extended for one year, through school year 2020-2021 (June 30, 2021). Due to the need to secure contracts without delay, LEAs may, pursuant to 2 CFR 200.320(f)(2), use emergency noncompetitive procurement to negotiate a one-year FSMC extension or new contract for SY2020-2021. Any contract resulting from noncompetitive proposals may not exercise renewal options.

### Extension of Four Waivers

* **Non-Congregate Feeding Waiver** – Under this waiver sponsors of the SFSP, SSO, CACFP, NSLP, and SBP may provide meals to students in a non-congregate setting. This will help sponsors and ensure access to nutritious meals while minimizing potential exposure to COVID-19. This waiver is extended through August 31, 2020.
* **Meal Service Time Flexibilities** – Under this waiver meal service times for CACFP, NSLP, and SBP are waived so that meal service can be streamlined to improve access. This waiver is extended through August 31, 2020.
* **Parent and Guardian Meal Pick Up** – Under this waiver students do not have to be present to receive a meal. Parents and guardians can pick up meals on behalf of students. This waiver applies to SFSP, SSO, CACFP, NSLP, and SBP. This waiver is extended through August 31, 2020.
* **Meal Pattern Flexibilities** – Under this waiver sponsors are able to apply to the VDOE to waive the meal pattern if they are unable to meet all of the necessary meal pattern requirements. Sponsors must provide documentation to support the need for the flexibility in the meal pattern. This waiver expires on June 30, 2020.

### A Summary of Current Waivers

USDA provided LEAs a series of waivers to the regulations designed to support access to nutritious meals while minimizing potential exposure to COVID-19. These waivers provide all child nutrition programs with the flexibilities to serve meals during the pandemic. A summary of these waivers is available in the *School Nutrition* section of the VDOE [COVID-19 & Virginia Public Schools webpage](http://www.doe.virginia.gov/support/health_medical/office/covid-19.shtml#school-nutrition).

If you have any questions about waivers in this memo or any other waiver provided in the summary, please call the specialist assigned to your region or email [SNPPolicy@doe.virginia.gov](mailto:SNPPolicy@doe.virginia.gov).

JFL/SCC/bdb