

Implementation of the Nationwide Waiver to Allow Specific School Meal Pattern Flexibility for School Year 2021-2022

Background

In March 2020, the Families First Coronavirus Response Act¹ (FFCRA) established a meal pattern waiver for child nutrition programs (e.g., the National School Lunch and Breakfast Programs). The waiver, issued by the U.S. Department of Agriculture (USDA), allowed school foodservice operators to waive certain meal pattern requirements as needed in order to provide meals safely during the pandemic.² A revised waiver, Nationwide Waiver to Allow *Specific* School Meal Pattern Flexibility for School Year 2021-2022 (emphasis added), became effective on October 1st, 2021, and remains in effect until June 30th 2022.³ The waiver applies to the following provisions under the National School Lunch Program (NSLP), School Breakfast Program (SBP), and Seamless Summer Option (SSO)³:

- That menus meet the dietary specification for sodium
- That all grains offered be whole grain-rich
- That, for preschoolers, at least one serving per day, across all eating occasions, must be whole grain-rich
- To offer a variety of vegetables from the vegetable subgroups
- To offer a variety (at least two different options) of fluid milk
- That low-fat milk must be unflavored
- To plan menus and offer food components for specified age/grade groups in the stated combinations

Typically, the state education or agriculture department (hereafter “State Agencies”) administer school meals programs. Anecdotes from State Agencies at the beginning of the 2021-2022 school year suggested that they lacked sufficient resources to process requests in a timely manner. In response to the nationwide supply chain disruptions, the USDA announced in September 2021 that up to \$1.5 billion would be distributed to states and school districts to help endure supply chain-related challenges.⁴ These funds, while widely celebrated by advocates and school nutrition stakeholders alike, support procurement, not staffing or administration of the waivers.⁵

To understand the reality of implementation of the Nationwide Waiver to Allow Specific School Meal Pattern Flexibility for School Year 2021-2022 (the “meal pattern waiver”), CSPI surveyed State Agencies.

Methodology

Survey design

The survey questions asked respondents to report the overall number of SY 21-22 meal pattern waiver requests received by each state to date in SY 21-22, the number of requests the agency approved, the number of requests the agency denied, the current number of requests still pending, and the estimated time needed to process current pending requests. The survey also asked questions to determine whether agencies had adequate resources and guidance from the USDA to process and implement waivers. Finally, the survey evaluated whether respondents had any suggested changes to the SY 21-22 meal pattern waiver to ensure that healthy, balanced meals are accessible to all students during the school year.

This survey did not collect any identifying or demographic information about the respondents or their State Agencies. CSPI used anonymity in this survey to encourage participation and alleviate potential apprehension associated with commenting on the waivers or support from USDA. Participation in this survey was voluntary, and there was no incentive offered for completion of the survey.

Data collection

CSPI distributed an online survey via Survey Sparrow to administrators at State Agencies in all 50 states and the District of Columbia (DC) between November 8th 2021 and January 25th, 2022. We prioritized contacting the highest-level staff at the State Agency administering the child nutrition program. CSPI has contacted State Agencies previously, and for Agencies with a known contact, we sent the survey to that person. If a Director, Executive Director, or related title was not available, we looked for staff associated with the school meals program (e.g., Child Nutrition Coordinator, Nutrition Standards Director, or Audit and Reporting Liaison). CSPI targeted these types of school nutrition representatives as they would be expected to be the points of contact for school districts requesting waivers and thus have the knowledge needed to answer the questions in the survey.

CSPI emailed one contact per Agency and requested that email recipients ensure that no more than one response be submitted per Agency. If the email bounced back, CSPI then worked to get a referral from Agency staff for a different contact email address. If the contact person indicated they were no longer working at the Agency or were working in a new position, CSPI attempted to get a referral for another contact.

Follow-up

CSPI sent at least two follow-up emails to request the completion of the survey. CSPI also contacted agencies by phone to encourage responses to the survey. A third email was sent if a contact phone number was unavailable or out of service.

Results

We received 29 responses from administrators. Most participants (n= 23) completed the survey during November 2021. Respondents reported the following information regarding the meal pattern waiver:

Receipt and Processing of Meal Pattern Waiver requests

First, CSPI asked respondents to quantify the number of Meal Pattern Waiver requests they had received for School Year 2021-2022.

Table 1. Frequency of waiver requests (n= 26*)

	Total Requests (n, %)	Average	Median	Minimum	Maximum
Received Requests	8,240	317	127	7	1,553
Approved	7,449 (90%)	287	127	0	1,135
Denied	384 (5%)	15	0	0	156
Pending	414 (5%)	16	0	0	359

*Note, the responses of three individuals were excluded from quantitative analysis due to errors in reporting.

Figure 1.

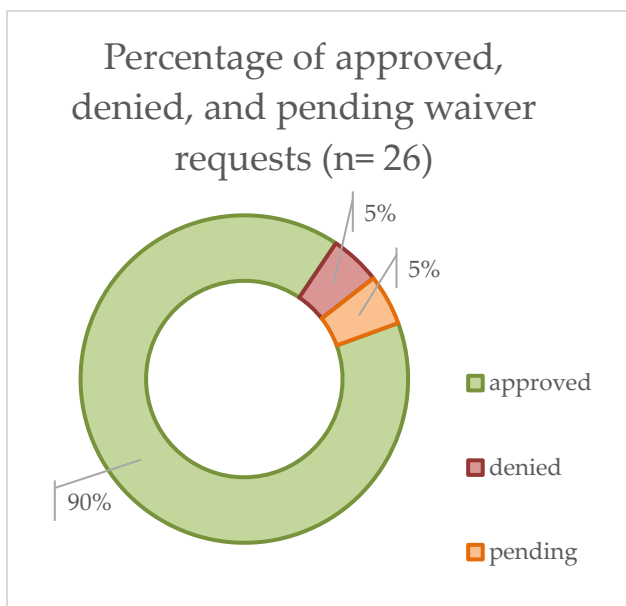
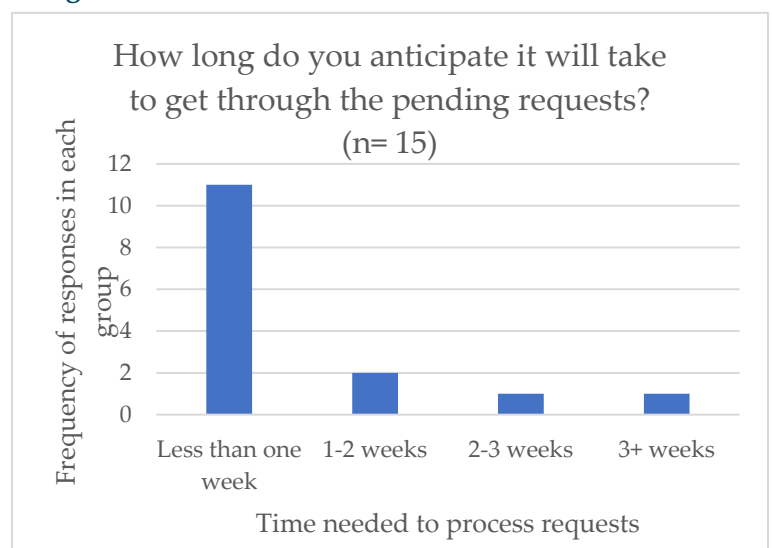


Figure 2

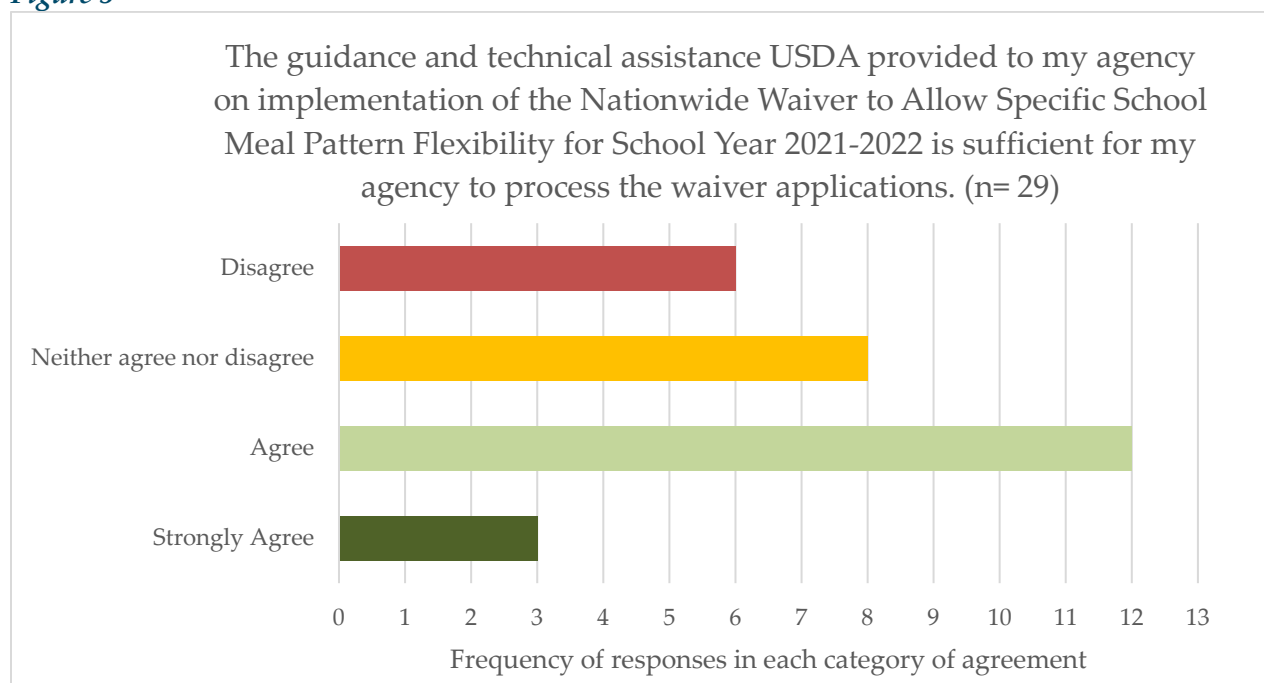


Despite anecdotal reports (outside of this survey) that pending requests would take weeks to sort through, most respondents felt their agencies could get through them in less than one week (Figure 2).

The USDA's Support

CSPI asked Agencies questions related to the USDA's support provided to date on implementation of the Meal Pattern Waiver. Of the 29 respondents, 15 (51 percent) either agreed or strongly agreed that the guidance and technical assistance the USDA had provided to their agency on implementation of the waiver was sufficient (Figure 3).

Figure 3



When asked to choose “which of the following does your agency need from the USDA in order to implement the SY 2021-2022 meal pattern waiver in a timely manner and provide adequate technical assistance?” options included funding, additional staff, trainings/webinars, none, or other (write in option available). The results follow:

- No respondents chose funding.
- One respondent said they needed additional staff.
- Ten respondents requested trainings and webinars.
- Eight responses indicated “none.”
- Ten respondents chose “other”. Of those that chose “other,” responses cited a need for a clearer and/or timely response from the USDA (n=4), including advanced notice of what reporting data will be needed for the USDA and/or Congress on implementation of the

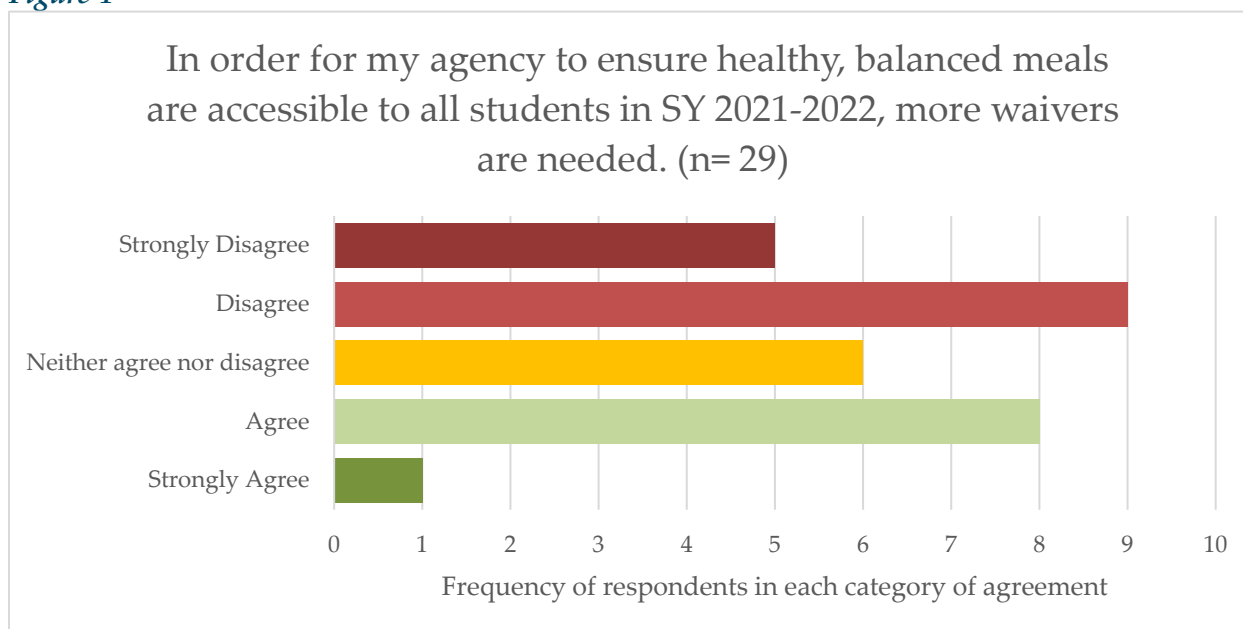
waivers (n=1) and guidance on developing procedures to manage waiver requests (n=1). Two responses mentioned supply chain disruptions, and one requested that “other” requirements be relaxed (from the USDA) so that Agency staff would have time to respond to waivers. There was some disagreement on the need for waivers, as one respondent asked for “blanket waivers for flexibilities that are frequently requested, which include sodium, whole grain, and milk type,” while another respondent urged the USDA, “Stop offering flexibilities and let's get back to normal. These have helped but now they are just being used because it's easier.”

Most of the respondents in this survey (69%) indicated that no changes are needed to the SY 21-22 meal pattern waiver to ensure healthy, balanced meals are accessible to all students during the year. However, the remaining respondents suggested the following changes to the meal pattern waiver that are needed to achieve this goal:

- This waiver should cover all components, not just a select few
- More flexibilities
- Blanket waivers because supply chain issues are so difficult for SFAs [school food authorities] right now
- Follow the meal patterns the way [regulations] require them to be followed.
- Continue them so long as the supply chain issues exist.
- More trainings for SFAs
- The supply chain issues should have been addressed as a separate waiver.
- SFAs would like a general meal pattern waiver that would cover shortages or missing components. This would reduce any administrative burden and worry of not being in compliance for the SFAs and allow them to focus on strategic menu planning and procurement.
- A template provided by USDA would have been extremely helpful.

Lastly, we asked whether respondents thought more waivers were needed to ensure healthy, balanced meals were accessible to all students in SY 2021-2022 (Figure 4). Over half (55%) of respondents disagreed or strongly disagreed that more waivers are needed for the agency to ensure healthy, balanced meals are accessible to all students in SY 2021-2022.

Figure 4



Recommendations

We applaud the USDA's efforts to protect the nutritional quality of school meals while provided needed flexibilities to operators during the pandemic. We encourage the USDA to provide additional technical assistance to state agencies and operators on ways to ensure the nutritional quality of school meals is preserved.

Beyond the \$1.5 billion for procurement, we encourage the USDA to provide funding for professional development opportunities, training, and for schools to provide competitive wages for school nutrition operators and staff. Retention of individuals trained in menu development, procurement, and school foodservice is critical during this crisis. We also encourage investments in sufficient kitchen equipment.

We urge Congress to extend the child nutrition waivers and increase reimbursement for school meals, so that school nutrition programs can ensure access to healthy, nutritious, and appealing meals for all students.

Limitations

One limitation is that we were unable to determine if our sample included duplicate responses from individuals within the same agency, due to the fact that the survey did not collect identifying information. Another limitation is that Agencies responding in January 2022 had more time to process waiver requests than Agencies that responded in November 2021 and feedback for the USDA could have evolved over time. With a limited sample size,

we are unable to draw meaningful conclusions from the data. Due to the level of nonresponse bias in this survey, results should not be considered nationally representative across all state agencies.

Acknowledgements

We would like to thank the Academy of Nutrition and Dietetics for supporting the survey design and concept of this brief.

Additional Resources

- [Implementation of COVID-19 meal pattern waivers: Best practices and comparisons by state](#) (CSPI)

For more information, please contact the Center for Science in the Public Interest at policy@cspinet.org.

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¹ Families First Coronavirus Response Act. P.L. 116-127

² US Department of Agriculture. COVID-19 Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs. March 25, 2020. <https://www.fns.usda.gov/cn/covid-19-child-nutrition-response-74>. Accessed January 27, 2022.

³ US Department of Agriculture. COVID-19 Nationwide Waiver to Allow Specific Meal Pattern Flexibility in the Child Nutrition Programs. August 27, 2021. <https://www.fns.usda.gov/cn/covid-19-child-nutrition-response-90>. Accessed January 27, 2022.

⁴ US Department of Agriculture. USDA Announces \$3 Billion Investment in Agriculture, Animal Health, and Nutrition; Unveils New Climate Partnership Initiative, Requests Public Input. September 29, 2021. <https://www.usda.gov/media/press-releases/2021/09/29/usda-announces-3-billion-investment-agriculture-animal-health-and>. Accessed January 27, 2022.

⁵ US Department of Agriculture. USDA Distributes \$1.5 Billion to Strengthen School Meal Program. <https://www.usda.gov/media/press-releases/2021/12/17/usda-distributes-15-billion-strengthen-school-meal-program>. Accessed January 27, 2022.