

# Simplifying Meal Pattern & Monitoring Requirements in the National School Lunch & School Breakfast Programs

Proposed Rule

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United States Department of Agriculture

# Today's Agenda

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- Proposed rule intent
- Review of proposals
- Request for public comments



## This rule is PROPOSED

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- The Proposed Rule does not change the established NSLP/SBP meal pattern or monitoring requirements
- Any changes would be implemented in a Final Rule



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your screen.



## Proposed Rule: More Options, Less Red Tape

### The proposed changes aim to:

- Help local operators experiencing operational challenges that limit the ability to feed children efficiently
- Reduce administrative burden, increase flexibility, and improve service while maintaining integrity
- Provide flexibilities to help all operators:
  - Plan nutritious and appealing meals
  - Sustain student participation
  - Better serve their communities



## Proposed Rule: Overview

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**The Rule proposes changes in three key areas:**

- Monitoring
- Meal service
- Competitive/À la Carte foods

**Also includes:** Clarifications, updates, and technical corrections

**Seeking public comment on specific items:**

- In some areas, no changes proposed
- Seeking public input to inform future policymaking





# Proposed Flexibilities & Changes: Monitoring

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# School Meals Administrative Review Cycle

## Current Requirement

State agencies must conduct an administrative review of each school food authority (SFA) participating in the school meal programs at least once during a 3-year review cycle.

## Proposal

States agencies may review SFAs using a 5-year review cycle.

State agencies would identify SFAs that are high-risk.

High-risk SFAs would receive additional oversight through a targeted review.



## High-Risk Selection



High-risk selection would be determined by:

- Previous findings from an administrative review; and
- Known procurement noncompliance.

\*State agencies may add other risk criteria and designate an SFA as high-risk.\*



# Additional Oversight

Additional oversight would take place:

- Through targeted follow-up reviews
- Within two years of being designated high-risk



## Additional Oversight

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Targeted follow-up review would concentrate on:

- Areas identified as high-risk for the SFA;
- Performance Standard 1;
- Performance Standard 2; and
- Resource Management Areas.



## Other Options Considered

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- 5-year cycle for low-risk SFAs and 3-year cycle for high-risk SFAs
- 5-year cycle with some SFAs reviewed comprehensively and others receiving a condensed review



## Specific Public Input Requested

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- The review cycle structure
- How to determine an SFA's risk of noncompliance, including the risk factors to consider
- The scope of the targeted follow-up review
- How risk factors should apply if a State agency opts to review SFAs more frequently than on a 5-year cycle



# Food Service Management Company Review Cycle

## Current Requirement

SFAs with a food service management company must receive a food service management company review once during a 3-year cycle.

## Proposal

Aligns the food service management company review cycle with the proposed 5-year administrative review cycle.



# Earlier Review of School Food Authorities With Significant Noncompliance

## Current Requirement

SFAs with significant **meal pattern noncompliance** must be reviewed earlier in the administrative review cycle.

## Proposal

SFAs with significant **meal counting and claiming noncompliance** must also be reviewed earlier in the administrative review cycle.



# Audits

Current Requirement	Proposal
<p>State agency may use findings from Federal or State audits in lieu of corresponding review components.</p>	<p>Expands to allow audit activities that are added to Federal or State audits by local operators, or other third-party audits initiated by SFAs and other local entities.</p>

# Oversight Outside of the Formal Administrative Review

Current Requirement	Proposal
State agencies currently are not able to use oversight measures that take place outside of the formal administrative review in lieu of components of the review.	Allows State agencies to satisfy sections of the administrative review through equivalent State monitoring or oversight activities outside of the formal review process.

## Specific Public Input Requested

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- Any specific oversight activities that States or SFAs are already conducting, or are considering, that are outside of the formal review process



# Integrity Initiatives

Current Requirement	Proposal
None Currently	Proposes a framework for waiving or bypassing certain review areas when a USDA-designated system or process is implemented in order to reduce or eliminate Program errors.



# Specific Public Input Requested

- Specific process reforms that might be considered for this incentive-based provision
- How the overall integrity of the school meal programs may be enhanced if States and SFAs were to implement such reforms



# On-Site School Breakfast Program Review

Current Requirement	Proposal
State agencies must review elements of the School Breakfast Program (SBP) on-site in half of the sites selected for review that operate the Program.	Provides flexibilities when conducting on-site breakfast reviews in extenuating travel circumstances.



## Specific Public Input Requested

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- What additional extenuating travel or safety circumstances could be included in the regulation?
- What parts of the on-site breakfast review cannot be satisfied during an on-site review of lunch?
- Are any potential risks to Program integrity posed by omitting an on-site breakfast review?
- What challenges do State agencies and SFAs encounter related to the on-site breakfast review?
- What off-site processes and tools are, or could be, available to States to ensure schools are successfully operating the SBP?



# Resource Management

## Current Requirement

State agencies must conduct an off-site assessment of an SFA's nonprofit school food service account to evaluate the risk of noncompliance with Resource Management requirements.

## Proposal

Allows State agencies to assess an SFA's risk for noncompliance with Resource Management areas at any point in the review process.



# Fiscal Action

## Current Requirement

State agencies **must** take fiscal action for repeat meal pattern violations concerning milk type and vegetable subgroups.

## Proposal

State agencies **may** take fiscal action for repeat meal pattern violations concerning milk type and vegetable subgroups.



# Review of Buy American

## Current Requirement

Buy American regulatory requirements are not included in administrative review regulatory requirements.

## Proposal

Aligns regulations with existing guidance and adds specific Buy American review requirements to the regulatory language regarding general areas of the administrative review.



# Proposed Flexibilities & Changes: Meal Service

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# Facilitate Service of Vegetable Subgroups

Current Requirement	Proposal
<p>Schools must offer different amounts of five vegetable subgroups over a week.</p> <p>Legumes offered as a meat alternate do not count toward vegetable requirements.</p>	<p>Schools could offer the same amount (1/2 cup) of 5 vegetable subgroups over a week to all age/grade groups.</p> <p>Legumes offered as a meat alternate could count toward the weekly Legumes vegetable requirement.</p>



# Legumes Flexibility

## Example (grades 9-12)

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### Grades 9-12 Meal Pattern Requires:

1 cup vegetables per day  
5 cups vegetables per week



### Offered:

Vegetarian Chili w/ ½ cup of pinto beans (offered as meat alternate)

✓ Meets the requirement to offer ½ cup of legumes/week

### Would Stay the Same:

- Legumes may count as meat alternate or vegetables, but not both in the same meal.
- Minimum daily and weekly vegetable requirements. In this example, school must still offer:
  - 1 cup of vegetables on the day pinto beans are offered as a meat alternate
  - 5 cups of vegetables over the week

## Specific Public Input Requested

- Minimum weekly amount(s) that SFAs should be required to offer from each vegetable subgroup
- How to implement in a way that supports menu planners in offering a variety of healthy vegetables to children



# Add Flexibility to Age/Grade Groups

Current Requirement	Proposal*
<p>Schools are required to offer meals that meet nutritional requirements for three established age/grade groups:</p> <ol style="list-style-type: none"><li data-bbox="310 818 485 862">1. K-5</li><li data-bbox="310 886 485 930">2. 6-8</li><li data-bbox="310 954 516 998">3. 9-12</li></ol>	<p>Schools with unique grade configurations could +/- 1 grade on either/both ends of age/grade group.</p> <p>Schools with unique grade configurations in small SFAs (&lt;2,500 students) could offer 1-2 meal patterns to all grades.</p>

\*SFAs exercising this flexibility would notify the State agency; approval would not be required



## Specific Public Input Requested

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- Benefits of each proposed flexibility, including how proposals may ease requirements
- Drawbacks of each proposed flexibility, including the potential of overfeeding or underfeeding children by offering meals not designed for their age/grade group
- Feasibility of offering additional foods or larger portions to older children when schools plan meals based on the meal pattern for younger children



## Increase Flexibility to Offer Meats/Meat Alternates in SBP

### Current Requirement

Schools may offer meats/meat alternates at breakfast only after 1 oz. eq. of grain is offered.

### Proposal

Would allow schools to offer meats/meat alternates and/or grains at breakfast (or a combination of the two) interchangeably with no daily minimum grain requirement.



## Flexibility in SBP Fruit Component for Breakfasts Served Outside Cafeteria

Current Requirement	Proposal*
Schools must offer 1 cup of fruit in all breakfasts.	Would allow schools to offer ½ cup of fruit in breakfasts served outside the cafeteria.

\*State agency approval would be required.



## Specific Public Input Requested

- Expected benefits of permitting schools to offer ½ cup of fruit in non-cafeteria breakfasts
- Potential of underfeeding children by offering less fruit
- Feasibility of offering additional foods or larger portions to older children and children who would like a full cup of fruit



# Remove Trans Fat as Dietary Specification

Current Requirement	Proposal
Trans fat is prohibited in NSLP, SBP, and à la carte foods.	Would remove trans fat as a dietary specification, effective July 1, 2021.



*FDA is regulating trans fat out of U.S. food supply.*



# Update Meal Modifications for Disability and Non-Disability Requests

Current Requirement	Proposal
A written medical statement from a licensed physician is required to make meal substitutions for a participant's disability or special dietary need.	Would update regulations to align with existing statutory requirements and policy guidance.  Would remove the term "special dietary need" (encompassed in expanded "disability" definition).



## Update Meal Modifications for Disability and Non-Disability Requests (cont.)

Current Requirement	Proposal
A written medical statement from a licensed physician is required to make meal substitutions for a participant's disability or special dietary need.	Would add definition for "State licensed healthcare professional."  Would clarify that a medical statement is only required for modifications that fall outside meal pattern requirements.



## Specific Public Input Requested

- Is it too burdensome to require a note from a State licensed healthcare professional for meal modifications that do not meet the meal pattern requirements?
- Would a different definition for “State licensed healthcare professional” better facilitate reasonable meal modifications for individuals with disabilities?
  - If so, which additional healthcare professionals should be allowed to write a note to support meal modifications that do not meet the meal pattern requirements?



## Expand Potable Water Requirement to Include Naturally Flavored, Calorie-Free, Noncarbonated Water

Current Requirement	Proposal
Schools are required to offer unflavored, potable water to children in places where meals are offered.	Would permit schools to offer calorie-free, naturally flavored, noncarbonated water to meet the potable water requirement.



# Performance-Based Reimbursement Report: Change to Annual Report

## Current Requirement

States are required to submit the performance-based reimbursement report quarterly.

## Proposal

States would be required to submit the performance-based reimbursement report annually.



# Proposed Flexibilities & Changes: Competitive Foods/A La Carte



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# Expand Entrée Exemption Timeframe

## Current Requirement

Entrées are exempt from Smart Snacks standards on the day offered on the school breakfast or lunch menu and one day after.

## Proposal

Would exempt entrees from Smart Snacks standards on the day entrée is offered on the school breakfast or lunch menu and two days after (one additional day).



## Specific Public Input Requested

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- Whether to extend the competitive food entrée exemption to all food items offered in reimbursable school meals
- Whether the whole grain-rich/whole grain as a first ingredient requirement should be removed from the definition of “Entrée”



# Expand Sale of Calorie-Free, Naturally Flavored Water to All Grades

## Current Requirement

Calorie-free, naturally flavored water (carbonated or noncarbonated) may only be sold in high schools (grades 9-12).

## Proposal

Would allow the sale of calorie-free, naturally flavored waters (carbonated or noncarbonated) to all age/grade groups.





# Clarifications, Updates, & Technical Changes



## Expand List of Outlying Areas

### Current Requirement

Certain outlying areas are permitted to serve traditional vegetables (e.g., yams, plantains, sweet potatoes) to meet the grains requirements.

### Proposal

Adds Guam and Hawaii to list of outlying areas that are permitted to serve traditional vegetables (e.g., yams, plantains, sweet potatoes) to meet the grains requirements.



# Change Vitamins A & D Units for Fluid Milk Substitutes

Current Requirement	Proposal
Fluid milk substitute requirements for vitamins A and D are listed in International Units (IUs).	Would change fluid milk substitute requirements for vitamins A and D to micrograms (mcg).

*Conforms with changes in FDA labeling requirements.*



# Add Flexibility to State Administrative Expense Funds

## Current Requirement

States are required to return any unexpended State Administrative Expense funds at the end of the fiscal year following the year for which the funds are awarded.

## Proposal

Would change “unexpended” to “unobligated” so States would be required to return any **unobligated** State Administrative Expense funds.



# Seeking Public Input (No Changes Proposed)

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# Substituting Vegetables for Fruits in SBP

## Current Requirement

SFAs offering vegetables in place of fruits at breakfast must ensure that at least 2 cups per week are from most underconsumed vegetable subgroups (i.e., the dark green, red/orange, beans and peas, or “other” vegetable subgroups) before starchy vegetables are offered.

## Please Comment On:

Whether to permanently allow the flexibility to offer ANY vegetables in place of fruits at breakfast.



# Grain-based Desserts in CACFP

Current Requirement	Please comment on:
<p>Grain-based desserts do not credit toward the grains requirement in CACFP.</p>	<p>Whether to permit up to 2 oz. eq. of grain-based desserts per week in the CACFP (similar to NSLP).</p> <p>Other ideas for permitting grain-based desserts in CACFP while supporting healthy nutrition standards.</p>



# Transparency for Administrative Review Results

## Current Requirement

States must report the final results of an administrative review to the public in an accessible, easily understood manner no later than 30 days after the SFA receives the results.

## Please comment on:

How to simplify the transparency requirement, including the:

- Process of posting results,
- Summary content, and
- 30-day timeframe.



## Keep in Mind...

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- The Proposed Rule does not change the established NSLP/SBP meal pattern or monitoring requirements
- Any changes would be implemented in a Final Rule



# Public Comments

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- **Name of proposed rule:** Simplifying Meal Patterns and Monitoring Requirements in the National School Lunch Program and School Breakfast Program
- **All comments must be received by **March 23, 2020****
- **Submit comments online or through mail (no duplicates):**
  - Web based address: [www.regulations.gov](http://www.regulations.gov)
  - Postal address: School Programs Branch, Policy and Program Development Division, Food and Nutrition Service, P.O. Box 2885, Fairfax, VA 22031-0885
  - Overnight, courier, or hand delivery: School Programs Branch, Policy and Program Development Division, Food and Nutrition Service, 1320 Braddock Place, 4th Floor, Alexandria, Virginia 22314



# Public Comments

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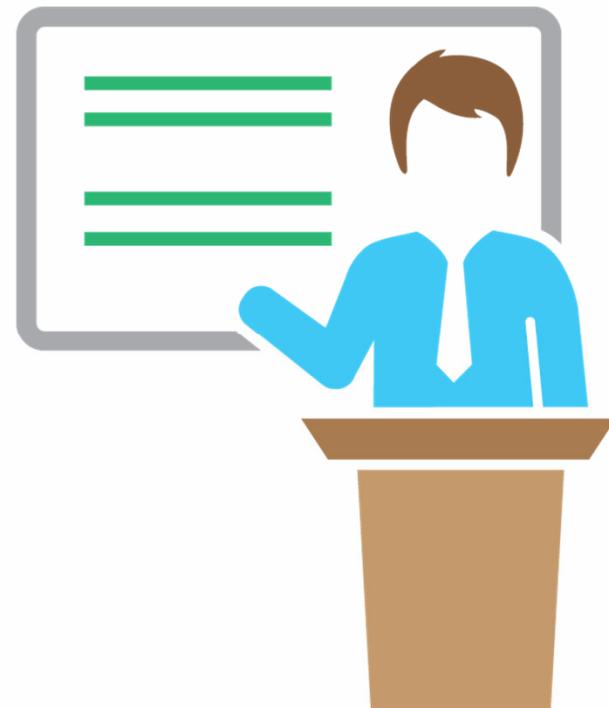
Focus  
comments  
on the  
proposed  
changes



# Resources

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- **Nutrition Standards for School Meals:**  
<https://www.fns.usda.gov/school-meals/nutrition-standards-school-meals>
- **School Meals Policy:**  
<https://www.fns.usda.gov/school-meals/policy>





# Questions?



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# Thank You!

<http://fns.usda.gov/>

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