

Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements

Background: USDA regulations implemented in 2012 for the National School Lunch Program (NSLP) and School Breakfast Program (SBP):

- Allowed flavoring only in fat-free milk in school meals;
- Required that half of the grains offered in the NSLP be whole grain-rich in School Year (SY) 2012-2013 and one year later in the SBP; and required that effective SY 2014-2015, all grains offered in both programs be whole grain-rich (meaning the grain product contains at least 50 percent whole grains and the remaining grain content of the product must be enriched); and
- Required schools to reduce the sodium content of meals offered on average over the school week by meeting progressively lower sodium targets over a 10-year period ending SY 2022-2023.

The Secretary of Agriculture acknowledged schools’ operational challenges in a May 1, 2017, Proclamation and committed to providing menu planning flexibility with respect to the milk, whole grain-rich, and sodium requirements. Subsequently, and consistent with the Consolidated Appropriations Act, 2017 (P.L. 115-31), USDA issued policy guidance (SP 32-2017, May 22, 2017) providing milk, whole grains, and sodium flexibilities for SY 2017-2018 while taking steps to formulate regulatory relief in these areas. Rulemaking began shortly thereafter.

Interim Final Rule (82 FR 56703; Nov. 30, 2017) Effective SY 2018-2019	Final rule (83 FR 63775; Dec. 12, 2018) Effective SY 2019-2020
The interim final rule (IFR) extends for one year, (SY 2018-2019) the flexibilities for milk, whole grains, and sodium currently available to Child Nutrition Program operators through policy.	The final rule, to be effective in SY 2019-2020, will make several modifications to the flexibilities established by the IFR and related meal pattern requirements. (The modifications are noted in italics.)
<p>Milk:</p> <ul style="list-style-type: none"> • The IFR allows schools to offer flavored, low-fat (1 percent fat) milk at lunch/breakfast and as a beverage for sale in SY 2018-2019 without the need to demonstrate operational hardship, which was required in SY 2017-2018 per the Appropriations Act, 2017. • For consistency across Child Nutrition Programs, the milk flexibility has been extended to participants ages 6 and older in the Special Milk Program and the Child and Adult Care Food Program. 	<p>Milk:</p> <ul style="list-style-type: none"> • Beginning SY 2019-2020, the final rule will allow schools to offer flavored, low-fat milk at lunch/breakfast and as a beverage for sale, without the need to demonstrate operational hardship, <i>and require that unflavored milk be available at each school meal service.</i> • For consistency across programs, the milk flexibility (without the italicized requirement) will be extended to other Child Nutrition Programs as specified in the IFR.
<p>Whole grain-rich:</p> <ul style="list-style-type: none"> • The IFR extends, through SY 2018-2019, the State agencies' discretion to grant whole grain-rich exemptions to school food authorities that demonstrate hardship in meeting the NSLP/SBP requirement to offer all grains as whole grain-rich. 	<p>Whole grain-rich:</p> <ul style="list-style-type: none"> • Beginning SY 2019-2020, the final rule will <i>require half of the weekly grains in the NSLP and SBP be whole grain-rich, and the remaining weekly grains must be enriched.</i> As a result, the final rule will reintroduce the requirement that was in place from SY 2012-2013 through SY 2013-2014, during the phase-in of the whole grain-rich requirement.
<p>Sodium:</p> <ul style="list-style-type: none"> • The interim final rule retains sodium Target 1 in the NSLP and SBP through SY 2018-2019, and moves Target 2 to SY 2019-2020 and the Final Target to SY 2022-2023. 	<p>Sodium:</p> <ul style="list-style-type: none"> • The final rule will <i>retain Sodium Target 1 through SY 2023-2024, move Target 2 to SY 2024-2025, and remove the Final Target.</i> USDA needs time to consider the impact of the new Dietary Reference Intakes for sodium and the 2020-2025 Dietary Guidelines for Americans on the NSLP/SBP.