

Streamlining Requirements and Improving Integrity in the Summer Food Service Program (SFSP) - Final Rule

USDA is implementing regulatory changes to the Summer Food Service Program (SFSP) regulations that simplify program requirements for SFSP program operators, improve the customer experience for participating children and families, and strengthen the integrity of the program. Many provisions codified through this final rule were previously allowed as program flexibilities and are demonstrated to facilitate program administration and service delivery for children and their families. This rule is effective Oct. 1, 2022. Compliance with the provisions of this rule must begin May 1, 2023. Parts of the Final Rule most relevant to sponsor operation are noted below. The full Final Rule may be viewed online: [Federal Register Notice of Final Rule](#).

Sponsor Application and Management Plans	
<p>New Regulation Summary</p> <ul style="list-style-type: none"> Codifies the flexibility that allows new SFSP sponsors that already operate school meals programs or the Child and Adult Care Food Program (CACFP) to follow the application requirements for experienced SFSP sponsors if they are in good standing. State agencies have the option to allow school food authorities (SFA) and CACFP institutions that are applying for SFSP for the first time to use this flexibility. The option to use the simplified application is only available to those sponsors that operate SFSP sites at the same locations where school meals or CACFP meals are being served. After a year of operating SFSP at their existing sites, an SFA or CACFP sponsor will be considered “experienced” and can apply using the experienced application procedures for all its sites. Codifies the flexibility that allows SFAs and CACFP sponsors in good standing to apply to participate in the SFSP without providing further evidence of financial and administrative capabilities. State agencies may request additional evidence if there is a reasonable belief that operating as an SFSP sponsor would pose significant challenges. Adds performance standards for evaluating an SFSP applicant’s financial and administrative capability, which aligns with current regulations, and clarifies that sponsors must demonstrate compliance with these performance standards as part of their management plan. 	<p>What does this mean for WI Sponsors?</p> <ul style="list-style-type: none"> New SFSP sponsors that do not operate other Child Nutrition Programs, such as the National School Lunch Program or Child and Adult Care Food Program (CACFP) are required to provide the requested documentation to validate the ability to operate the SFSP according to the clarified Performance Standards. DPI will provide the Sponsor Viability, Capability and Accountability (VCA) requirements, when applying for the SFSP. Experienced sponsors that operate other Child Nutrition Programs and are considered to be in good standing, may continue to submit the simplified management plan. Experienced sponsors that are not schools or do not operate the CACFP, are now required to submit a full management plan once every 3 years. Sponsors that are required to do this will be notified by DPI. The 2023 program will become the base year. DPI will provide details of what will be requested for 2023.
Civil Rights Requirements	
<p>New Regulation Summary</p> <ul style="list-style-type: none"> Codifies current guidance that allows state agencies to issue a media release for all sponsors. Allows sponsors of camps and other sites that are not operating in low-income areas to notify only participants or enrolled children instead of the community at large. Closed enrolled sites must also notify participants or enrolled children if a free meal application is needed so that the participants or their families know if they are expected to submit a free meal application. 	<p>What does this mean for WI Sponsors?</p> <ul style="list-style-type: none"> Starting with the 2023 SFSP, WI SFSP sponsors are no longer required to issue a media release prior to the start of the Program. The DPI will issue the media release on behalf of all sponsors. Sponsors that have open and restricted open sites should continue to make the community aware of the meal sites, dates of operation and times of meal services. Sponsors of camps and enrolled sites, must notify participants or enrolled children of the availability of free meals.

Site Monitoring Requirements

New Regulation Summary

- Requires sponsors to conduct a site visit in the first two weeks of operation for all new sites and those that experienced operational problems the previous year. State agencies may require a site visit for any or all sites during the first two weeks of program operations at their discretion.
- The state agency must establish criteria for what constitutes operational problems.

What does this mean for WI Sponsors?

- Sponsors that have new sites or sites that experienced problems in the prior year are required to conduct a site visit within the first 2 weeks of operation, instead of within the first week. Sites that operate for just one week must receive a site visit during that timeframe.
- The DPI has established criteria to determine if a site with problems in the previous year, is required to have a site visit within the first two weeks of operation. Sponsors are required to make this determination. The DPI may also determine if a site needs a site visit based on the DPI review.
- Sponsor must use the updated site monitoring forms and use the criteria developed by DPI to complete this requirement.
- Sponsors must continue to complete a full review of all sites prior to the end of the fourth week of operation. However, if the sponsor is conducting a site visit within the first 2 weeks of operation and also follows the requirements of completing a full review, this may count as both the visit and review that is required prior to the end of the fourth week of operation.

Meal Service Requirements

New Regulation Summary

Meal Service Times

- Removes meal service time restrictions but requires at least one hour between the end of one meal service and the beginning of another.
- Requires serving breakfast (three-component meals) at or close to the start of the day
- Allows state agencies to approve meals served outside of the approved meal service time if an unanticipated event that is outside of the sponsor's control occurs. USDA has clarified that these events include, but are not limited to: delayed meal deliveries, inclement weather that delays the start of the meal service, delayed public transportation utilized by participants, and other incidents as deemed appropriate by the state agency.

What does this mean for WI Sponsors?

- All sponsors, with the exception of residential camps, must plan for a minimum of an hour to lapse between the end of one meal service and the beginning of another. With the exception of the breakfast requirement below, that is the ONLY mealtime requirement in place.
- Breakfast must be served at or close to the beginning of the day and cannot be served after lunch or supper.
- DPI has developed a process to report unanticipated events that led to meals being served outside of the meal service time. If a sponsor wants to claim meals served outside of the approved meal service time, the unanticipated event must be reported and approved by DPI following instructions provided.

Off-site Consumption of Food Items

- Codifies existing policy guidance that allows children to take certain food items (i.e., fruit, vegetable, or grain item) off-site for later consumption.
- State agencies retain the discretion to prohibit sponsors from using this flexibility if the provision cannot be adequately monitored.

What does this mean for WI Sponsors?

- Sponsors may allow a child to take one fruit, vegetable, or grain item off-site for later consumption without the approval of the DPI as long as all applicable State and local health, safety and sanitation standards are met AND the sponsor can adequately monitor the situation.
- If DPI finds that the sponsor is not able to adequately administer and monitor the off-site consumption of food items, then DPI has the authority to prohibit the use of this option.

Meal Service Requirements Continued

Meals Served Away from Approved Locations

- Requires sponsors to notify the state agency that meals are being served away from the approved site. While formal approval is not required under this rulemaking, the state agency has the discretion to require formal approval if deemed necessary.
- Provides state agencies the option to set time limits for how far in advance of the field trip sponsors must provide notification.
- Requires sponsors of open sites to continue operating at the approved open site location while the field trip occurs. If that is not feasible, sponsors must notify the community of the change and provide information about alternative open sites.

What does this mean for WI Sponsors?

- DPI has established a new notification process for sponsors to follow if they wish to claim for meals off site (i.e., field trips). Formal approval will not be required.
- Sponsors are to complete the online form prior to the off-site meals taking place.
- DPI will allow open sites to close when meals are served off-site if the site does not have the ability to continue meal service that day (i.e., lack of staff to serve meals). However, the sponsor must notify the community of the change in meal service and provide information about alternative open sites.

DPI has the authority to disallow the off-site meals if:

- The sponsor does not notify DPI of the off-site meal service,
- It is determined that not all Program requirements have not been met, and/or
- The sponsor has not taken measures to notify the community of a site closure due to meals being served off-site.

Establishing the Initial Maximum Approved Level of Meals for sites of Vended Sponsors (Site Caps):

- Codifies guidance that allows sponsors of vended sites to request to adjust site caps (i.e., the approved level for the maximum number of children's meals that may be served at a site, which is typically based on facility capacity or historical participation levels) at any time prior to submitting a claim for reimbursement.
- Provides guidance to state agencies for determining initial site caps for sites without historical data (i.e., documentation of programming; number of children in the area). The final rule clarifies that states may consider other relevant information for determining site caps, taking into account the true capability and capacity of sites.

What does this mean for WI Sponsors?

- The site cap is the Estimated Number to Be Served on the Site Application, session page. Sponsors of vended sites may update the site application to modify the maximum approved level of meal service (site cap) any time prior to the submission of the claim in which it would affect.
- The site cap change must be approved by the DPI prior to submission of the claim.
- DPI will work with sponsors with new vended sites to establish a site cap.

New Regulation Summary

Offer Versus Serve (OVS)

- OVS had been extended through policy memo to allow non-SFA sponsors to implement Offer Versus Serve. This final rule codifies the proposed changes to OVS regulations, which removes this flexibility.

What does this mean for WI Sponsors?

- Per the new regulations, only SFA SFSP sponsors are currently allowed to implement OVS. DPI has requested a waiver of this regulation, to allow non-SFA sponsors in good standing, to continue to implement OVS. DPI will notify all sponsors of USDA's waiver decision soon.

Site Eligibility

New Regulation Summary

Eligibility for Closed Enrolled Sites

- Reinstates the use of area eligibility data to qualify closed enrolled sites, in addition to the practice of collecting individual income forms.
- USDA also is requiring that state agencies establish criteria for approving closed enrolled sites to ensure operation of a site as closed enrolled does not limit program access to the community at large (i.e., this provision could increase incidence of sites that would otherwise have operated as an open site).

What does this mean for WI Sponsors?

- Closed enrolled sites can continue to use area eligibility to qualify for the SFSP, as they did under previous waivers.
- DPI has established criteria for approving closed enrolled sites to ensure site operation does not limit program access to the community during the application process. Further details will be provided soon.

Duration of Eligibility

- Aligns the regulations with existing statute by amending the duration of eligibility for open sites and restricted open sites based on school and census data from three years to five years.

What does this mean for WI Sponsors?

- When open, restricted open and closed enrolled sites use school data to qualify for SFSP, new documentation is required every five years.
- When open, restricted open and closed enrolled sites use census data to qualify for SFSP, new documentation is required every five years, or earlier, if the DPI believes that an area's socioeconomic status has changed significantly since the last census.