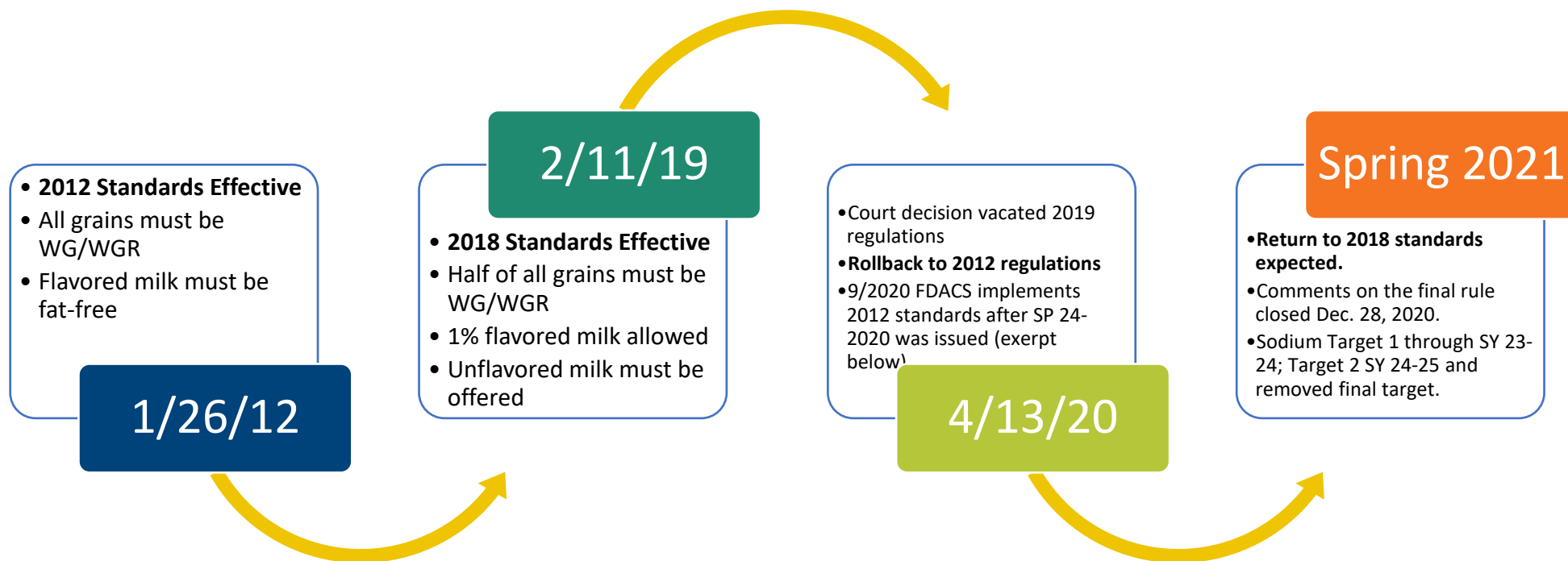




The below statement regarding the vacatur of the 2019 rule is from [SP 24-2020 Questions and Answers for the Child Nutrition Programs during SY 20-21](#) - Issued 8/21/20

Can you share any information regarding the court decision relating to the Child Nutrition Programs: Flexibilities for Milk, Whole Grains and Sodium Requirements Final Rule? Are the flexibilities provided under the Final Rule available for SY 2020-2021?

In an April 13, 2020, decision in the Center for Science in the Public Interest et al., v. Sonny Perdue, Secretary, et al., No. 8:19-cv-01004-GLS (D. Md. 2019), the U.S. District Court for the District of Maryland found a procedural error with the promulgation of the 2018 Final Rule, Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements (83 FR 63775, December 12, 2018), and therefore, vacated the regulation. For this reason, the flexibilities provided in the vacated rule are no longer available to States and local Program operators.

As a result of the vacatur of the rule in the Maryland case, **school meal patterns returned to the requirements of the 2012 final rule**, Nutrition Standards in the National School Lunch and School Breakfast Programs, 77 Fed. Reg. 4088 (Jan. 26, 2012).

Therefore, for SY 2020-2021 in the NSLP, SBP, and CACFP:

- Flavored milk may be only non-fat for K-12 students;
- All grains served in the NSLP and SBP must be whole grain or whole-grain rich; and
- School lunches and breakfasts offered through the NSLP and SBP must meet Target 2 weekly sodium levels as defined in 7 CFR 210.10(c) and 220.8(c).

[2012 Standards in the Federal Register](#)

[2018 Standards in the Federal Register](#)

The below information related to sodium in the NSLP is from [7 CFR 210.10](#)

National School Lunch Program	Sodium Timeline & Limits	
Age/Grade Group	Target 2: July 1, 2017 (SY 2018-2018) (mg)	Final Target: July 1, 2022 (SY 2022-2023) (mg)
K-5	≤935	≤640
6-8	≤1,035	≤710
9-12	≤1,080	≤740

The below information related to sodium in the SBP is from [7 CFR 220.8](#)

School Breakfast Program	Sodium Timeline & Limits	
Age/Grade Group	Target 2: July 1, 2017 (SY 2018-2018) (mg)	Final Target: July 1, 2022 (SY 2022-2023) (mg)
K-5	≤485	≤430
6-8	≤535	≤470
9-12	≤570	≤500