

CHILD NUTRITION PROGRAM STATE WAIVER REQUEST TEMPLATE

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(l) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(l), provides authority for USDA to waive requirements for State agencies or eligible service providers under certain circumstances. When requesting the waiver of statutory or regulatory requirements for the Child Nutrition Programs (CNPs), including the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the National School Lunch Program (NSLP), the Fresh Fruit and Vegetable Program (FFVP), the Special Milk Program (SMP), and the School Breakfast Program (SBP), State agencies and eligible service providers should use this template. State agencies and eligible service providers should consult with their FNS Regional Offices when developing waiver requests to ensure a well-reasoned, thorough request is submitted. State agencies and eligible service providers are encouraged to submit complete waiver requests at least 60 calendar days prior to the anticipated implementation date. Requests submitted less than 60 calendar days prior to the anticipated implementation should be accompanied by an explanation of extenuating circumstances.

For more information on requests for waiving Program requirements, refer to SP 15-2018, CACFP 12-2018, SFSP 05-2018, *Child Nutrition Program Waiver Request Guidance and Protocol- Revised*, May 24, 2018.

1. State agency submitting waiver request and responsible State agency staff contact information:

Tennessee Department of Education,
Dr. Sandy Dawes
School Nutrition State Director
710 James Robertson Parkway
10th Floor
Nashville, TN 37243
Sandy.Dawes@tn.gov
629-203-0208

2. Region: Southeast Region

3. Eligible service providers participating in waiver and affirmation that they are in good standing:

At this time there are no service providers to affirm, as the waiver seeks to abolish area eligibility requirements for summer feeding when schools are closed due to COVID-19. However, School Food Authorities (SFAs) wishing to claim reimbursements under this waiver will only be approved if in good standing with the state agency.

4. Description of the challenge the State agency is seeking to solve, the goal of the waiver to improve services under the Program, and the expected outcomes if the waiver is granted. [Section

12(l)(2)(A)(iii) and 12(l)(2)(A)(iv) of the NSLA]: The agency is seeking to absolve the requirement that the SFA may only serve meals at sites which meet area eligibility criteria as stated in USDA Policy Memo SP 09-2017 which refers site eligibility of Seamless Summer Option (SSO) sites to Summer Food Service Program (SFSP) requirements where at least 50% of children must qualify for free or reduced-price meals through one of three mechanisms—through either school data, census data, or additional verified data.

This seeks to streamline program requirements by allowing any attendance area affected by closures related to COVID-19 to serve meals to children aged 18 and under at no cost to the child. As the Tennessee governor has recommended all schools to close no later than Friday, March 20, 2020 through

the remainder of March 2020 in order to implement social distancing as a method for slowing community spread of COVID-19, it is imperative that children continue to receive nutritious meals through the National School Lunch Program and School Breakfast Program. Continuation of nutritious meals is essential for proper immune system function and school closings for COVID-19 are not limited to geographic areas where at least 50% of the population is eligible for free or reduced-price meals. Children eligible for free and reduce price meals live in areas where not 50% of the population is eligible for free and reduced-priced meals and these children will be the most likely to suffer without implementation of this waiver.

Challenges without the waiver:

- Increase in childhood hunger in areas not area eligible during school closures due to COVID-19
- Service limited to children in eligible areas and therefore missing children that qualify for benefits but live in areas where 50% of the population do not qualify

The goal of implementing the waiver is to improve overall services through:

- Decreased administrative burden to SFAs by removing the qualifying barrier of area eligibility
- Flexibility to allow meals to be served to all children impacted by COVID-19 school closures within the attendance area

Expected outcomes of the wavier:

- Allow SFAs to serve meals to all children regardless of area eligibility requirements during unanticipated school closures related to COVID-19 outbreak
- Maintained participation in NSLP and SBP
- Maintained support of local economies and continuing to provide economic activity through SFA employees

Although the benefit of waiving area eligibility requirements would not be limited to the following communities, there are five counties in Tennessee that would especially benefit from being able to serve meals in locations that do not currently qualify as area eligible. Details of the specific challenges faced by communities in each of these counties are below. Furthermore, the data that we currently have to establish eligibility cannot be accurate considering the sudden downturn in the United States and Tennessee economy. In the last week alone there was an increase of 70,000 claims of joblessness.

Williamson County. Williamson County is served by two SFAs: Franklin Special School District located in Franklin, TN and Williamson County. While Franklin Special School District does meet area eligibility requirements, there is only one other census block in Williamson County, located in Fairview, TN, that meets area eligibility requirements. No schools served by the Williamson County SFA meet the 50% threshold to be considered area eligible. The Fairview schools are not located in the Census block that is area eligible and an area eligibility can be achieved where the schools are located by averaging Census blocks. The closest area eligible sites to Fairview are located 18 miles away. In all of Williamson County, there are 3,518 students that have been identified as eligible for free or reduced-price meals. The ability to expand meal service beyond current area eligibility requirements would provide continued access to these students and more during the time of COVID-19 and the economic downturn that is currently happening.

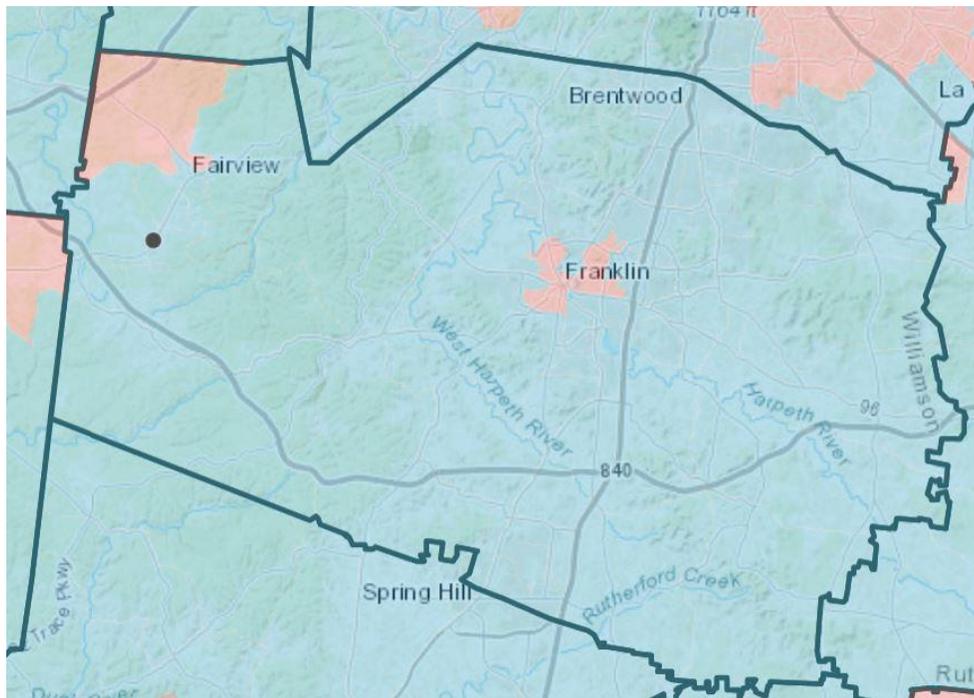


Figure 1. Image of Williamson County displaying the lone area that meets area eligibility requirements based on Census data (red). No schools in Williamson County meet the 50% threshold for area eligibility requirements.

Wilson County. While Wilson County has more census eligible areas than Williamson County, none of the 21 schools meet area eligibility requirements. To complicate the matter in Wilson County, two of the schools located in the areas that could be qualified by census data were damaged beyond repair in the tornado that struck middle Tennessee March 3. Wilson County has 4,496 students that currently qualify for free and reduced-price meals.

Knox County. Knox County has mixed eligibility access by both census and school determinations. One community in Knox County, Farragut, has six schools that do not meet eligibility requirements by either census or school data; together these six schools have 932 students certified for free or reduced-price meals. They must travel to either the Bearden or Karns neighborhoods schools to receive a meal which are both approximately 12 miles away from Farragut. Furthermore, Cedar Bluff Elementary, which has an enrollment of 1,277 students, an average lunch participation of 70% and 48.9% of students eligible for free or reduced-price meals, but cannot be qualified to continue meal service at the elementary school. The closest site to Cedar Bluff Elementary is located at Bearden Middle School which is five miles from Cedar Bluff Elementary; although the two schools are somewhat close together, this distance is likely not reflective of how far students and families would need to travel to the school to receive a meal.

Shelby County. There are three municipal districts in Shelby County, Germantown, Lakeland, and Arlington, which do not meet area eligibility requirements. None of the 3 SFAs have schools that reach the 50% threshold to qualify to be area eligible. Lakeland has established a meal site in a community not usually serviced by the SFA; this site's eligibility was established by using census data. This site is 8 miles away from the closest Lakeland School. Neither Arlington nor Germantown have areas within the municipality that qualify based on census data and are unable to provide a site outside of the city limits due to local board policy. According to October 2019, Germantown has 411 students that qualified for free or reduced-price lunch, Arlington 505 students, and Lakeland 311 for a total of 1,227 previously identified in these three municipalities that have limited access to readily available nutrition school meals during the COVID-19 school closings due to the restrictions of area eligibility requirements.

Gibson County. There are five SFAs in Gibson County and all but one have sufficient area eligibility options to continue serving meals to their students. The community of Medina is located in southern Gibson County and is included in the Gibson County Special School District; Medina has an elementary, middle, and high school, none of which meet the 50% threshold to meet area eligibility requirements. As of October 2019, these three schools had 654 students certified for free or reduced-price meals. There are area eligible sites in the neighboring towns of Jackson, Milan and Humboldt, but these sites are approximately ten miles from the closest school in Medina.

The above descriptions identify at least 12,000 students previously certified to receive free or reduced-price meals that do not currently have easy access to nutritious meals while schools are closed due to COVID-19. Lifting the area eligibility requirements would result in these children and thousands more having continued access to meals provided by school nutrition programs even when school is not in session.

5. Specific Program requirements to be waived (include statutory and regulatory citations). 7CFR 225.6(e)(15) that meals be served and consumed in a congregate setting, in order to support any social distancing requested by Federal, State, or local authorities. 7 CFR 225.6 (d)(1)(iv) limiting the operation of the SFSP or SSO during an unexpected school dismissal during the school year to non-school sites. The agency is seeking to absolve the requirement that the SFA may only serve meals at sites which meet area eligibility criteria as stated in USDA Policy Memo SP 09-2017 which refers site eligibility of Seamless Summer Option sites to SFSP requirements. SFSP sites are located in areas which poor economic conditions exist which is defined in 7 CFR 225.2 definitions as a geographic area where at least 50% of children residing in that area have been determined eligible for free or reduced-price school meals, a geographic area where based on most recent census data at least 50% of children would be eligible for free or reduced-price school meals, or a geographic area that provides other evidence that 50% of children enrolled would be eligible for free or reduced-price meals.

6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:

Currently, the application for summer feeding sites allows information to be overridden and to be qualified by “other” reasons. If this waiver is implemented, those sites that are not typically area eligible could utilize this function within the system application to qualify the site via COVID-19 closing procedures. Therefore, no new technology will be required to implement this waiver if granted. If the waiver is implemented, the following data will be collected: number of SFAs utilizing the waiver, number of sites that are serving meals outside of area eligibility requirements, number of meals served at each site under the waiver, and total meals served by each SFA under the waiver.

Monitoring will be completed by the state agency; each SFA implementing the waiver will be required to keep production records and documentation of meals served to students. SFAs will be monitored a minimum of one time per school year utilizing a desktop monitoring process. State agency monitoring will be accomplished by either a desktop review or through routine administrative review procedures.

If the waiver is not granted, program operations will be impacted by limiting the number of SFAs that have the capacity to serve meals during school closures for COVID-19. Not granting the waiver may ultimately decrease the number of meals served to students, which will increase food insecurity and childhood hunger.

7. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(l)(2)(A)(ii) of the NSLA]: The state agency has two active waivers in place; one waiver allows meals to be served at school sites during unanticipated school closures and the second waiver absolves the requirement that meals must be served in a congregate setting. Both of these waivers allow for meals to be served with social distancing in mind, while still providing quality nutritious meals to children. The Department of Education is working closely with the Department of Human Services (DHS) administrator of Summer Food Service Program (SFSP) in Tennessee to determine if feeding sites are available through other feeding programs.

8. Anticipated challenges State or eligible service providers may face with the waiver implementation: There are no anticipated challenges to service providers with implementation of the waiver. The implementation of the waiver will alleviate potential challenges when school is closed due to COVID-19 by allowing meals to be served at non area eligible feeding sites.

9. Description of how the waiver will not increase the overall cost of the Program to the Federal Government. If there are anticipated increases, confirm that the costs will be paid from non-Federal funds. [Section 12(l)(1)(A)(iii) of the NSLA]: The waiver will not result in increased program costs. All eligible meals served to children will be reimbursed at the free rate.

10. Anticipated waiver implementation date and time period: The waiver will be implemented upon approval by USDA for SFAs that wish to serve meals in areas that do not meet area eligibility requirements during school closures related to COVID-19. The governor of Tennessee has currently recommended that schools close through the end of March 2020 to help contain the spread of COVID-19. However, as the COVID-19 pandemic is continually evolving, with recent recommendation from the Center for Disease Control and Prevention (CDC) to limit gatherings larger than 50 people through mid-April 2020 this guidance from the governor may also evolve and thus this waiver is requested for the entirety of calendar year 2020 to cover any future closing recommendations related to COVID-19.

Implementation date requested: March 17, 2020

Time period requested: December 2020

11. Proposed monitoring and review procedures: Each SSO sponsor is monitored during the regular administrative review process or through desktop review if not scheduled for an SSO review this school year.

12. Proposed reporting requirements (include type of data and due date(s) to FNS): Meals served under the waiver will be claimed via SSO meals and reported monthly and quarterly via FNS 10, 543, and 777 reports. If the waiver is implemented, the following quantitative data will be collected: number of SFAs utilizing the waiver, number of sites that serve meals due to COVID-19 school closures in areas not usually qualified by area eligibility guidelines, and meals served by each sponsor. Qualitative data regarding waiver implementation will also be collected including impact on services, including providing nutritious meals, to recipients/participants.

13. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(l)(1)(A)(ii) of the NSLA]: <https://www.tn.gov/education/snp-resources/snp-listservs.html>

14. Signature and title of requesting official:



Title: School Nutrition State Director

Requesting official's email address for transmission of response: Sandy.Dawes@tn.gov; 629-203-0208

TO BE COMPLETED BY FNS REGIONAL OFFICE:

FNS Regional Offices are requested to ensure the questions have been adequately addressed by the State agency and formulate an opinion and justification for a response to the waiver request based on their knowledge, experience and work with the State.

Date request was received at Regional Office:

Check this box to confirm that the State agency has provided public notice in accordance with Section 12(I)(1)(A)(ii) of the NSLA

Regional Office Analysis and Recommendations: