

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

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629-203-0208

2. Region: Southeast Region

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

As School Food Authorities (SFAs) and Local Education Agencies (LEAs) make plans for returning to school for the 2020-2021 school year, some students will be participating in school virtually, either all or some days. In addition to virtual learning, COVID-19 is expected to resurge in the fall and winter months, which may result in a total shutdown of school. With these new operating challenges, it will be necessary to feed children away from school grounds some or all days. In order to accommodate this blended style of learning, the state agency (SA) is seeking to allow for summer programs to be operated during the school year and in a non-congregate setting without the existing requirement of a 10 day school closure or without the event of an unanticipated school closure. Those SFAs that wish to implement feeding through the seamless summer option (SSO) will only be granted permission to do so if they are 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]:

As LEAs plan for returning to school, social distancing remains a top priority. In order to accommodate recommended social distancing guidelines, schools are implementing new and unique strategies for

learning spaces. These strategies may include but are not limited to students alternating between some virtual class days and some days physically in classrooms, high risk students participating entirely in virtual learning, and staggered scheduling. The intent of the National School Lunch Program (NSLP) and School Breakfast Programs (SBP) is for meals to be consumed while participating in school activities. The new blended learning formats will lead to limited participation without the ability for meal service to continue in a non-traditional setting. In order to streamline operations and continue service without interruption, SFAs need to be able to operate one feeding program in order to ensure all students have access to school meals regardless of the model implemented by the LEA.

Furthermore, program regulations found at 7 CFR 225.6(e)(15) and 7 CFR 226.19(b)(6)(iii) require that Child Nutrition Program meals must be served in a congregate setting and must be consumed by participants on site.

By implementing summer meal programs during the regular school year and allowing those meals to be consumed off-site, children will continue to have access to meals both on days when they are scheduled to participate in school in physical in-person classes and virtual class days.

Challenges without the waiver:

- Decrease in participation, due to the inability to feed kids participating in virtual learning
- Increased burden to program operators to train all school staff on proper meal counting and claiming by student status as students have been recommended to eat in the classroom by the Centers for Disease Control and Prevention (CDC)

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

- Decreased administrative and operating burden to SFAs by allowing meals to be served in a non-congregate setting and all to be reimbursed at the free rate
- Addressing public health concerns and health officials' recommendations

Expected outcomes of the waiver:

- Allow SFAs to serve meals through multiple modes of delivery, including at non-congregate sites through May 31, 2021
- Maintained participation in Child Nutrition Programs
- Maintained support of local economies and continuing to provide economic activity through SFA employees
- Address public health concerns regarding social distancing

5. Specific Program requirements to be waived (include statutory and regulatory citations).

Section 13(c)(1) of the NSLA (42 U.S.C. 1761(c)(1) allows payments to be made to service institutions for summer programming only during the months of May through September, except during school vacations from year round calendars or during an unanticipated school closure. The state agency seeks to absolve this requirement and thus to allow SFAs to operate summer programming during the regularly scheduled school year to accommodate for the new learning environment presented by the novel coronavirus.

Additionally, the state agency is requesting to waive the requirements under the Richard B. Russell National School Lunch Act at 42 U.S.C. 1753(b)(1)(A) and 42 U.S.C. 1761(a)(1)(D), and Program regulations at 7 CFR 225.6(e)(15) and 7 CFR 226.19(b)(6)(iii), Child Nutrition Program meals must be served in a congregate setting and must be consumed by participants on site.

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

Allowing SFAs to operate summer programs instead of the traditional NSLP when school resumes will streamline program operations. All meals served to students will be eligible for reimbursement at the free rate which will streamline paperwork and training requirements. This will also alleviate the burden of processing free and reduced price lunch applications. Implementing summer programming and providing the flexibility to do so in a non-congregate manner will allow SFAs to serve all children, both those attending the physical school building and those participating in virtual learning, through one program. Without the waiver, children participating in virtual learning may not be able to participate in school meals program, thereby increasing hunger across the state of Tennessee.

Currently, the nationwide waiver per COVID-19: Child Nutrition Response #22 is in effect until September 30, which allows state agencies to waive the congregate meal requirements. This flexibility needs to be extended so that students can continue to participate in meal programs when required to participate in virtual learning or unable to return to physical school buildings because of the novel coronavirus. All SFAs that operated emergency feeding at the outset of the COVID-19 outbreak also operated under non-congregate waivers, thus operators are aware of the requirements of operating in a non-congregate setting.

The state's application system includes the ability to apply to serve SSO in all months throughout the school year. Thus, there would not be any technological systems needed.

Monitoring will be completed by the state agency; each SFA implementing the waiver will be required to keep 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 increasing programmatic burden on food service operators. Fewer students will have access to meals because the students that are participating in virtual learning will not be eligible to receive a meal. Not granting the waiver may ultimately decrease the number of meals served to children, which will decrease food security and increase childhood hunger.

7. Description of any steps the State has taken to address regulatory barriers at the State level.

[Section 12(I)(2)(A)(ii) of the NSLA]: The regulations seeking to be waived prevent state-level remedies from being a possibility to address the issue.

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 in regards to program operations, staffing issues, and congregate feeding concerns with implementing new learning modalities in response to public health measures resulting from the outbreak of the novel coronavirus.

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(I)(1)(A)(iii) of the NSLA]:

The waiver will not result in increased program costs. We do not foresee the waiver increasing program costs due to the increased amount of virtual learning that is planned to take place, therefore, we believe that overall participation of the program will decrease. As in, many students will not be physically present in a school to participate in NSLP overall participation may reflect the

increase of virtual learning and decrease of participation. Therefore, even though all meals will be reimbursed at the free rate, we believe overall costs will balance by a reduction in expected overall participation. For example, during COVID-19, there were 18,907,865 meals served between March-May 2020 while operating SSO during emergency feeding, compared to 31,479,266 NSLP meals that were served under normal operations March-May 2019.

Also, operating under SSO there would not be a need for paper applications for free and reduced students, which would alleviate labor costs to the districts and overall administrative burden. In addition, operating SSO would eliminate the necessity of training teachers on how to accurately capture meal counts within the classroom by appropriate student categories.

10. Anticipated waiver implementation date and time period: The waiver will be implemented as districts return to school for the 2020-2021 school year to accommodate of virtual and blended learning environments of students both being physically present on the campus and participating in virtual classes. if they will be upon approval by USDA for SFAs that wish to serve meals at non-congregate sites related to COVID-19.

Implementation date requested: August 1, 2020

Time period requested: May 31, 2021

11. Proposed monitoring and review procedures: Each SSO sponsor is monitored during the regular administrative review process.

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(l)(1)(A)(ii) of the NSLA

Regional Office Analysis and Recommendations: