

## **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  
10<sup>th</sup> Floor  
Nashville, TN 37243  
[Sandy.Dawes@tn.gov](mailto: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 **approximately 76** SFAs currently participating in the meal pattern flexibility as allowed by COVID-19 Child Nutrition Response 4 and extended by COVID-19 Child Nutrition Response 13. The School Food Authorities (SFAs) currently approved to utilize the waiver have been determined to be in good standing prior to approval and any future SFAs wishing to operate under the 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 assist SFAs with providing nutritious meals based on their capabilities due to ordering barriers, supply chain issues, and increasing staffing shortages on a case-by-case basis. The state agency is seeking to provide flexibilities to serve meals that meet the meal pattern requirements during the public health emergency due to COVID-19. The goal of this waiver is to allow SFAs to continue providing meals and maintain participation in Child Nutrition Programs.

Under Program regulations at 7 CFR 210.10(b) and (c), 220.8(b) and (c), Child Nutrition Program meals must meet meal pattern requirements. However, the state agency recognizes that, in this public health

emergency, appropriate safety measures are necessary. Therefore, the state agency is requesting to waive the requirements at 7 CFR 210.10(b) and (c), 220.8(b) and (c), to serve meals that meet the meal pattern requirements during the public health emergency. The state agency expects and strongly encourages Program operators to maintain and meet the nutrition standards for each Program to the greatest extent possible.

Although the initial waiver was extended through May 31, the state agency is seeking to further extend the waiver to ensure seamless participation in summer feeding programs. Summer meals are always an important protector of family's food and economic security and summer meals are even more essential to protecting these as the novel coronavirus has resulted in unprecedented interruptions to the economy accompanied by unprecedented levels of job loss and unemployment.

Challenges without the waiver:

- Increase in program operators unable to meet meal pattern requirements
- Increase in program operators deciding to stop serving children under SSO

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

- Decreased administrative and operating burden to SFAs by providing flexibilities in meeting meal pattern requirements
- Flexibility to allow different quantities of food components, flexibility in meeting vegetable subgroup requirements, or potentially eliminating a component due to supply chain issues

Expected outcomes of the waiver:

- Allow SFAs to serve meals with meal pattern flexibilities beyond May 31
- Maintained participation in Child Nutrition Programs
- Maintained support of local economies and continuing to provide economic activity through SFA employees

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

The state agency is requesting to waive the requirements at 7 CFR 210.10(b) and (c), 220.8(b) and (c), to serve meals that meet the meal pattern requirements during the public health emergency. The state agency expects and strongly encourages Program operators to maintain and meet the nutrition standards for each Program to the greatest extent possible.

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

Currently, the nation-wide waiver per COVID-19: Child Nutrition Response #13 is in effect until May 31, which allows state agencies the authority to waive meal pattern requirements on a case-by-case basis. However, SFAs intend to continue to feed children through the summer months when school was not expected to be in session. In the event of continued disruptions in food availability and supply chain issues, this waiver is needed to provide immediate flexibility to SFAs.

Many SFAs have already denoted multiple hardships regarding the meal pattern during their emergency feeding operations. Therefore, numerous SFAs are currently utilizing the meal pattern flexibility waiver. In order to best serve the SFAs, the state agency would like to extend the meal pattern flexibilities to ensure continued, uninterrupted meal services are able to happen throughout the state. Currently, the SFA completes a meal pattern flexibility request form and the school nutrition state director approves each request on a case-by-case basis. The requests are filed with the state agency and at the local level in order to keep clear records of any waivers utilized during the public health emergency. Therefore, extending

the nation-wide waiver through September 30, 2020 would not impact state procedures already in place to ensure each SFA request is addressed on a case-by-case basis in a timely manner and no new technology would be 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 limiting the number of SFAs that have the capacity to serve meals during summer months. Not granting the waiver may ultimately decrease the number of meals served to students, 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 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 closing with the Department of Human Services (DHS) administer of Summer Food Service Program (SFSP) in Tennessee to determine if feeding sites are available through other feeding programs.

The state of Tennessee is also operating under the National Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs and the Nationwide Waiver to Allow Parents and Guardians to Pick-Up Meals for Children.

Tennessee has been approved by FNS USDA to implement an area eligibility waiver, non-congregate feeding waiver, and an unanticipated school closures waiver.

**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 supply chain barriers, staffing issues, and overall meal pattern requirements challenges.

**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.

**10. Anticipated waiver implementation date and time period:** The waiver will continue to be implemented upon approval by USDA for SFAs that have currently been approved to operate with meal pattern flexibilities when there are issues and disruptions to the supply chain. Additional SFAs may be added if they demonstrate issues in meeting meal pattern requirements and request to operate under the approved waiver.

Implementation date requested: June 1, 2020

Time period requested: September 30, 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 under the waiver extension, 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:**



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Title: School Nutrition State Director

Requesting official's email address for transmission of response: [Sandy.Dawes@tn.gov](mailto: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:**