

## **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, all school food authorities (SFAs) participating in the seamless summer option (SSO) are operating the nationwide flexibility to provide meals in a non-congregate setting as established in COVID-19 Child Nutrition Response 2: Nationwide Waiver to Allow Non-congregate Feeding in the Child Nutrition Programs. Currently there are 145 SFA sponsors, but all may not continue operating beyond when school was scheduled to be in session. This waiver seeks to extend the nationwide waiver that allows meals to be served through the National School Lunch Program and the School Breakfast Program in a non-congregate setting. Due to the public health emergency precautions, SFAs currently are practicing social distancing, following CDC recommendations, and following any local and state level health department recommendations. With the extension of non-congregate feeding SFAs will be able to continue summer feeding in the most robust way beyond June 30. Also, since the novel coronavirus is ever-evolving, extending the nationwide waiver through September 30, 2020 will help to alleviate the need to continuously adjust operation methods and would allow more time to focus efforts on providing nutritious meals to children. 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]:** According to program regulations found 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. However, with the public health emergency, the state agency is seeking to help minimize potential exposure to the novel coronavirus, while still providing access to food to children, by requesting to extend the nationwide waiver to allow non-congregate feeding to continue through September 30. Many summer programs have already cancelled operations for this summer or have switched to an online model, thus limiting potential sites that could be utilized as traditional congregate sites.

Challenges without the waiver:

- Decrease in participation, due to risk of exposure in congregate settings and limited access to sites
- Increase in program operators deciding to stop serving children during summer months
- Decrease in school nutrition labor force as health concerns impact staffing

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

- Decreased administrative and operating burden to SFAs by extending the non-congregate feeding flexibility
- Addressing public health concerns and health officials' recommendations
- Increase access to food for children due to increase in unemployment during COVID-19

Expected outcomes of the waiver:

- Allow SFAs to serve meals at non-congregate sites until September 30, 2020
- 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).**

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:**

Currently, the nationwide waiver per COVID-19: Child Nutrition Response #2 is in effect until June 30, which allows state agencies to waive the congregate meal requirements. However, SFAs intend to continue to feed children through the summer months, which for most districts includes the month of July and some of August.

Many SFAs have already denoted multiple hardships regarding the expiration of the nationwide waiver. Expected challenges without expansion of the waiver include but are not limited to retraining staff and volunteers mid-operation to comply with congregate feeding rules, lack of community partners available to act as feeding sites due to continued social distancing, and the inability to maintain recommended social distancing at feeding sites. Therefore, numerous SFAs that typically have robust programs throughout the summer are reporting an inability to continue feeding children without an extension of the

non-congregate waiver. In order to best serve the SFAs, the state agency would like to extend the non-congregate feeding in Child Nutrition Programs waiver to ensure continued, uninterrupted meal services are able to happen throughout the state.

Currently, all SFAs are utilizing this flexibility as a statewide option. Therefore, extending the nationwide waiver through September 30, 2020 would not impact state procedures already in place 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 continue to serve meals during summer months while regarding COVID-19 precautions. 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 state agency has implemented the waiver which absolves the requirement that meals must be served in a congregate setting. This waiver allows 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.

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 program operations, staffing issues, and congregate feeding concerns during the public health emergency.

**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 be implemented upon approval by USDA for SFAs that wish to serve meals at non-congregate sites related to COVID-19. However, as the COVID-19 pandemic is continually evolving, and current recommendations from the Center for Disease Control and Prevention (CDC) are to limit gatherings larger than 10 and although the state of Tennessee has started to open the economy in some areas, the Governor continues to urge residents to “do your part and stay apart”. Thus this waiver is requested through September 30, 2020 to cover any future recommendations related to COVID-19.

Implementation date requested: July 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 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(I)(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(I)(1)(A)(ii) of the NSLA**

**Regional Office Analysis and Recommendations:**