

## **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 no service providers to affirm, as the waiver seeks to abolish area eligibility requirements for summer feeding beyond June 30, 2022. 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 SFAs 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.

Currently, as provided in USDA Policy Memo COVID-19 Response #85—Nationwide Waiver to Allow the Seamless Summer Option through School Year 2021-2022, SFAs are permitted to operate SSO at any site regardless of location. As clarified in SP 15-2021 these sites can be located at both school and non-school sites. The academic calendar for school in Tennessee typically end in late May or early June,

therefore, summer feeding programs will be well established and underway when this waiver expires. Ending the area eligibility flexibility midway through the summer would greatly increase administrative burden and training requirements by creating a situation in which summer feeding programs would operate under two separate sets of requirements during the traditional summer.

Challenges without the waiver:

- Increase in childhood hunger in areas not area eligible due to removal of summer feeding programming midway through the traditional summer time
- 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
- Increase of administrative burden due to the requirement of determining which sites must stop operating under the area eligibility requirement when the waiver expires on June 30, 2022

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.
- Decreased administrative burden to SFAs and SA by eliminating mid program application changes due to changing regulations during operation
- Flexibility to allow meals to be served to all children impacted required learning loss camps closures within the attendance area
- Increased overall participation in SSO during July and August

Expected outcomes of the waiver:

- Allow SFAs to serve meals to all children regardless of area eligibility requirements during the entirety of the summer break
- Maintained participation in SSO beyond June 2022
- Maintained support of local economies and continuing to provide economic activity through SFA employees

Meal eligibility determinations have not been made since SY19-20, making it impossible to know the true status of eligibility across the state. Although established area eligibility is current for five years, there may be areas where economic conditions have deteriorated as a result of the COVID-19 pandemic. Communities that were close to the 50% threshold, but did not qualify may have worsened economic conditions, and may now be eligible for meeting area eligibility requirements but do not have updated documentation to demonstrate the need.

Continuation of nutritious meals is essential for proper immune system function and academic success, especially during COVID-19, and is 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.

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 meet area eligibility criteria. The following data was gathered in 2020 and is the most up to date representation available for the need of expanding area eligibility requirements beyond June 30, 2022. It is likely that economic conditions have shifted in ways that cannot be captured by the data that is currently available to SFAs.

**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, in 2020 there was 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; although the Fairview schools did qualify for severe need breakfast, demonstrating that the majority of students participating in the program are eligible for free or reduced price meals. In the updated Census map, Williamson County still only has one eligible Census block, but it is now located in the southwest corner of the county. There are still no schools located within in the block that is eligible. 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 learning loss camps.

**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, 2020. These schools have yet to be repaired. 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.

Furthermore, the Tennessee has enacted remedial learning camps, which require attendees to be served two meals and a snack daily during required programming. Per TCA 49-6-1502: (4)(D) “Lunch and at least one snack or breakfast per day, provided to each student five days per week” are required to operate the learning loss camps. These learning loss camps create a great need for continued meal service beyond the current cutoff of June 30, 2022.

**5. Specific Program requirements to be waived (include statutory and regulatory citations).** 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, all SFAs and schools are operating SSO under the area eligibility waiver and there is no way to differentiate which sites truly qualify for operation under area eligibility. Without expansion of the area eligibility waiver, determining which sites are eligible for continued feeding will be cumbersome for state operations.

The application for summer feeding sites allows information to be overridden and to be qualified by “other” reasons. This method has been used since the initial waiving of area eligibility in early 2020. The system does not provide a report of how sites were qualified. If this waiver is implemented, the application system will continue to operate as it currently is and therefore no new technology is required to implement the waiver if granted.

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 through the traditional administrative review processes. 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 through SSO. Also, schools not within an area eligible location will have to find alternative meal solutions in order to meet the learning loss camp meal requirements. 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(I)(2)(A)(ii) of the NSLA]: The state agency has opted into all area eligibility nationwide waivers, which are set to expire June 2022. The Department of Education is working closely 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.

**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 operating SSO and streamline administrative requirements 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 learning loss camps and afterschool mini camps.

Implementation date requested: July 1, 2022

Time period requested: August 31, 2022

**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 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:**



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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:**