

## **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 the U.S. Department of Agriculture (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  
Bill Byford, State Nutrition Director  
710 James Robertson  
Pkwy Andrew Johnson  
Tower, 10<sup>th</sup> floor  
931-797-6981  
[Bill.Byford@tn.gov](mailto:Bill.Byford@tn.gov)

### **2.Region:**

Southeast Region

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

The Tennessee School Nutrition Program School Food Authorities 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.**

Challenges without the waiver:

- Without the waiver, newly eligible (25% ISP) school sites wanting to operate Community Eligibility Provision (CEP) would not be able to because the final rule is effective after the June 30 CEP election deadline for the 2023-24 school year.
- April 1, 2023 ISP data may not be available to all SFAs creating a barrier to those that would like to opt into the new CEP mid-year election flexibility.

Expected outcomes of the waiver:

- To allow newly eligible SFAs to operate CEP and to feed children at no charge.
- Goal of the Waiver and Expected Outcomes: Is to provide SFAs with some additional time to determine CEP election data and provide documentation to state agency. The mid-year election deadline has been determined by the state agency and is set to January 15, 2024.
- Improved access to CEP ISP data for those that do not have April 1, 2023 ISP data.

**5. Specific Program requirements to be waived (including statutory and regulatory citations). [Section 12(l)(2)(A)(i) of the NSLA]:**

- The requirement that LEAs that intend to elect CEP in the following school year must notify the State agency and submit ISP documentation not later than June 30 of the current school year under Section 11(a)(1)(F)(x)(I) of the NSLA, 42 U.S.C. 1759a, and FNS regulations at 7 CFR 245.9(f)(4)(i); and
- The requirement that LEAs must calculate the CEP ISP using data as of April 1 of the prior school year under Sections 11(a)(1)(F)(iii)(I)(bb) and (a)(1)(F)(iv)(I)(bb) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1759a, and FNS regulations at 7 CFR 245.9(f)(3)(i), (f)(4)(i), (f)(4)(v)(A), and (f)(4)(viii).

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

If approved, the Tennessee School Nutrition Program agrees to continue to comply with all procedures outlined in the provided CEP Final Rule guidance published September 26, 2023.

**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 submitted this waiver request to allow newly eligible SFAs to opt in for a mid-year CEP election, based on the recent guidance provided by USDA. This waiver will address the newly eligible SFAs.

**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 State agency does expect to see continued improved services for SFAs.

**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.

**10. Anticipated waiver implementation date and time period:**

The waiver will be implemented upon approval by USDA for school year 2023-24.

**11. Proposed monitoring and review procedures:**

Monitoring will be completed by State agency. State agency monitoring will be accomplished through scheduled administrative reviews and on-site technical assistance visits.

**12. Proposed reporting requirements (include type of data and due date(s) to FNS):**

Continue to provide required reports by the deadlines, as well as any other reports required by FNS.

**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/districts/snp-resources/snp-forms.html>

**Signature and title of requesting official:**

\_\_\_\_\_ State Nutrition Director

Requesting official's email address for transmission of response: [Bill.Byford@tn.gov](mailto:Bill.Byford@tn.gov)

**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:**