

## **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,  
Bill Byford  
School Nutrition State Director  
710 James Robertson Parkway  
10<sup>th</sup> Floor  
Nashville, TN 37243  
[Bill.Byford@tn.gov](mailto:Bill.Byford@tn.gov)  
931-797-6981

### **2. Region:** Southeast Region

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

All Seamless Summer Option (SSO) sponsors in good standing and approved by TN DOE to operate SSO.

### **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]:**

SSO operations serve meals during the summer months when school is not in session. Many SSO site locations operate outdoor meal services without temperature controlled alternative locations. TN DOE is requesting that SFAs that operate meal service at these outdoor sites be allowed to provide non-congregate meal service on days when the area experiences excessive heat as defined by the National Weather Service as a Heat Advisory or Excessive Heat Warning.

### **Challenges without the waiver:**

- Without this waiver, SFAs will have to require that children remain at outdoor sites to consume meals during times of excessive heat. This practice could put the health and safety of both the children and the site operators at risk.

- Decreased program participation as children are unable to receive meals during times of excessive heat.
- Food insecurity will continue to be an issue for children as they are unable to receive the nutritional support provided at outdoor SSO sites.

Expected outcomes of waiver:

- The goal of this waiver is to allow SFAs to safely serve meals at outdoor sites to children during times when the area experiences excessive heat.
- SFAs will be able to continue servings communities at outdoor sites during times of excessive heat.
- More children will receive meals throughout the summer due to increased program access.

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

Tennessee Department of Education School Nutrition Program requests a waiver of regulations regarding Non-Congregate Meal Service during Summer 2022 [42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(e)(15)].

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

If approved, TDOE School Nutrition Program will provide technical assistance to sponsors on processes and procedures in operating the SSO to maintain accountability and program integrity. The online Tennessee application system is already equipped to handle this flexibility; each site application includes the question of whether or not the site would like to implement non-congregate feeding during times of excessive heat. Tennessee sponsors are familiar with operating under the non-congregate meal flexibilities experiences throughout the public health emergency. The use of this waiver to the state agency via an electronic submission process does not impact technology, state systems, or monitoring.

**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 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 nor the state with implementation of the waiver. The implementation of the waiver will alleviate potential challenges in regards to program operations faced by SFAs during times of excessive heat during the summer months.

**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]:**

Approval of this waiver will not increase the overall cost of the program to the federal government.

**10. Anticipated waiver implementation date and time period:** The waiver will be implemented statewide upon approval from USDA and is to remain in effect through September 2024.

Implementation date requested: Immediately, June 2023

Time period requested: September 30, 2024

**11. Proposed monitoring and review procedures:** TDOE School Nutrition Program will provide training and technical assistance for sponsors to ensure compliance with SSO regulations. Each SFA will be monitored during the regular administrative review process.

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

One year after the date of waiver approval, TDOE School Nutrition Program will report to FNS a summary of the use of this waiver by the state agency and local program operators and a description of whether and how this waiver resulted in improved services to Program 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-forms.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: [Bill.Byford@tn.gov](mailto:Bill.Byford@tn.gov); 931-797-6981

**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:**