**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

10th 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:**

All Tennessee Department of Education (TDOE) School Nutrition Program approved Fresh Fruit and Vegetable Program (FFVP) sponsors in good standing, operating during school year 2020-21.

**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]:**

Challenge:

COVID-19 continues to affect school operations and TDOE School Nutrition Program recognizes that in this public health emergency, 2020-2021school year has many unknowns. Based on information from the field, School Food Authorities (SFAs) are planning for several different learning models for 2020-2021 school year:

• 100% remote learning

* School buildings will be closed, and remote learning will occur

• Hybrid learning

* Different start dates per grade level and alternating student schedules
* Small, in-person learning with remote learning rotations
* Rolling starts and stops; change between in-person, or modified in-person and remote learning

• 100% in-person learning

* + School buildings will open at the beginning of the school year, potentially close if there are cases of COVID at the school, and then reopen 2-3 weeks later after proper cleaning/sanitation measures have been taken.

As it is unclear which scenarios will come to fruition during 2020-2021 school year, creating flexibilities within FFVP will give SFAs the opportunity to use available funding to offer fresh fruits and vegetables to children.

To maintain children’s access to FFVP foods, TDOE School Nutrition Program is requesting that SFAs be permitted to offer FFVP fruits and vegetables to students enrolled in participating elementary schools at alternate locations. Alternate locations will only be used to distribute FFVP fruits and vegetables, when the participating site is not operating meal service due to COVID-19.

Goal:

To maintain children’s access to FFVP fruit and vegetables allowing operation of FFVP to continue at alternate locations during altered site operations.

Expected Outcomes: Ensure participants have uninterrupted access to fresh fruits and vegetables and that SFAs have the flexibility to use the FFVP funds they have been granted to feed children.

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

Tennessee Department of Education School Nutrition Program requests a waiver of regulations at Section 19(b) of the National School Lunch Act (NSLA) [42 U.S.C. 1769a] that limits the availability of the FFVP fruit and vegetables to elementary schools.

**6. Detailed description of alternative procedures and anticipated impact on Program operations,**

**including technology, State systems, and monitoring:**

If approved, FFVP fruits and vegetables will be allowed to be distributed at alternate locations when the participating site is not operating meal service due to COVID-19. TDOE School Nutrition Program will provide technical assistance to SFAs on processes and procedures in operating the FFVP to maintain accountability and program integrity. TDOE School Nutrition Program will require FFVP sponsors to document their process for ensuring that FFVP is distributed only to eligible children. There are no impacts on current 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:**

TDOE School Nutrition Program does not anticipate that the establishment of this waiver will pose any additional challenges at the state or SFA level. Alternatively, TDOE School Nutrition Program anticipates this waiver will reduce challenges faced by schools and communities that are experiencing varying operational statuses due to COVID-19, ensuring uninterrupted access to fresh fruits and vegetables and that SFAs have the flexibility to use the FFVP funds they have been granted to feed children.

**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 since the FFVP operating expenditures will not exceed the 2020-21 school year grant allocations per site. There are no additional staff costs to implement this waiver.

**10. Anticipated waiver implementation date and time period:** The waiver will be implemented as districts return to school for the 2020-2021 school year to accommodate for virtual and hybrid learning models and cancelled extracurricular activities as related to COVID-19.

Implementation date requested: August 2020

Time period requested: June 30, 2021

**11. Proposed monitoring and review procedures:** TDOE School Nutrition Program will provide training and technical assistance for sponsors to ensure compliance with FFVP 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-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:**