**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:**

As School Food Authorities (SFAs) and Local Education Agencies (LEAs) make plans for returning to school for the 2020-2021 school year, food service considerations must be made. Many districts are considering a cafeteria to classroom model or food delivered to the classroom. Potable water is a concern as traditional water fountains are not recommended to be used and water filling stations may not be feasible at all meal service locations. FNS SP 28-2011 states that the SFA must provide cups at no cost to the child, and that children cannot be required to bring their own cups for water, however, with the sanitation safeguards needed with COVID-19, providing refillable water bottles may be not a plausible option. Also, taking into consideration COVID-19 precautions, buffet style and/or self-service food service operations are not encouraged. With new operational challenges, potable water becomes a major concern. In order to accommodate the new serving barriers districts face, the state agency (SA) is seeking to absolve the requirement that potable water be made available where meals are served during meal service. Those SFAs that wish to implement meal service without access to potable water will only be granted permission to do so if they are 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]:**

As LEAs plan for returning to school, social distancing remains a top priority. In order to accommodate recommended social distancing guidelines, schools are implementing new and unique strategies for learning and meal service spaces. When students are able to attend school in person, meal service may be limited to the classroom instead of taking place in the cafeteria in order to implement social distancing guidelines. In addition to eating in the classroom, items with a high frequency of touchpoints are being discouraged; traditional water fountains are being included in these high touchpoint items. Self-service water will also not be an option in many schools as the self-service model is also being discontinued in order to reduce the spreading of COVID-19. In order to streamline operations and continue service without interruption, SFAs need to be able to operate the feeding program in order to ensure all students have access to school meals regardless of the model implemented by the LEA.

Challenges without the waiver:

* Decrease in ability to safely serve potable water at the time of meal service.
* Increased burden to program operators to provide appropriate potable water at multiple meal service locations throughout schools.

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

* Decreased administrative and operating burden to SFAs by allowing meals to be served without potable water available.
* Addressing public health concerns and health officials’ recommendations.

Expected outcomes of the wavier:

* Allow SFAs to serve meals through multiple modes of delivery without the additional need for potable water at meal service locations.
* 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).**Section 9 of the NSLA (42 U.S.C. 1758(5)) states schools participating in the school lunch program under this Act shall make available to children free of charge, as nutritionally appropriate, potable water for consumption in the place where meals are served during meal service. 7 CFR 210.10(a)(i) states schools must make potable water available and accessible without restriction to children at no charge in the place(s) where lunches are served during the meal service. This is further clarified in SP28-2011 that water must be made available during meals served outside of the cafeteria, such as in the classroom.

The state agency seeks to absolve this requirement and thus would allow SFAs to serve meals in a location without potable water available in order to accommodate for COVID-19 precautions.

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

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

Allowing SFAs to serve meals without the availability of potable water when school resumes will streamline program operations. This will alleviate the additional considerations that would be needed in order to have multiple meal service locations during lunch times that schools are planning in order to address social distancing recommendations. By easing the burden of the potable water requirement at the location of meal service, schools will be able to provide meals in multiple locations, which would suit their needs better. Some locations in consideration for school districts include, but are not limited to: classrooms, designated spots in the hallways, cafeterias, annex buildings, gymnasiums, etc. SFAs will have to seek approval from the state agency before implementing the waiver and provide justification as to why the potable water requirement cannot be met with the service model being implemented. SFAs must keep records of the meal service models which utilized this model and the state agency will complete monitoring through the regularly scheduled administrative review process.

Monitoring will be completed by the state agency; each SFA implementing the waiver will be required to keep records and documentation of waivers utilized. SFAs will be monitored by the state agency staff, which may include ensuring the waiver request form is on file with the state agency. State agency monitoring will also be accomplished during routine administrative review procedures.

If the waiver is not granted, program operations will be impacted by increasing programmatic burden on food service operators. Fewer districts will be able to appropriately provide meals to students in a safe way in regards to pandemic concerns. 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(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 with implementation of the waiver. The implementation of the waiver will alleviate potential challenges in regards to program operations, staffing issues, and barriers to implementing new meal service models in response to public health measures resulting from the outbreak of the novel coronavirus.

**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 as districts return to school for the 2020-2021 school year to accommodate for multiple meal service models as related to COVID-19. .

Implementation date requested: July 2020

Time period requested: June 30, 2021

**11. Proposed monitoring and review procedures:** Each SFA is monitored during the regular administrative review process.

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