

## **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:**

While organizations are thankful for the flexibilities provided to them by USDA, they are now limited by how many meals can be served through a single program. Many students rely on school meals for more than just breakfast and lunch. In order to maintain food security of students, SFAs would like to be able to provide snacks along with breakfast and lunches to students participating in summer feeding programs. While there is always a need to provide additional meals to students during the summer months, there is an increased need in summer 2021 for exceeding the two meal per child per day limit set forth. Tennessee has passed legislation requiring in person summer learning camps to combat learning loss that resulted from schools closing due to COVID-19. The summer learning camps include seven hours of programming and require breakfast, lunch, and snack to be served to students. Local education agencies (LEAs) will also be providing transportation to and from the summer learning camps which will result in children being away from home for nine hours. This time away from home mimics a typical school day when children would have access to breakfast, lunch, and snack provided by the SFA or other local organization. Children need more nutrition than is provided in a breakfast and lunch when they are away from home for an extended amount of time.

If approved for the waiver, the state agency (SA) will only approve SFAs that are in good standing with state.

**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 state agency is seeking to serve snacks during the summer months along with breakfast and lunch and therefore exceed the two meal per child per day limit. Whereas the National School Lunch Program (NSLP) provides the ability to serve children breakfast, lunch, and snack all in one day, SSO does not. Operation of the snack program along with SSO has been permitted during 2020-21 academic year and will again be allowed during the 2021-22 academic year, however, we are seeking to allow this simultaneous operation during summer 2021 between academic years by exceeding the 2 meal per child per day limit in SSO regulations.

Many children rely solely on the availability of school meals and the inability to provide children snacks in addition to breakfast and lunch will lead to increased hunger and food insecurity. As the COVID-19 pandemic continues, the economy continues to suffer, and parents are struggling to feed children. As mentioned above, children will be away from home for 7-9 hours to participate in summer learn camp activities which mimic a traditional school day and need additional nutrition support beyond breakfast and lunch during this timeframe.

Challenges without the waiver:

- Increased risk of food insecurity among students who usually receive more than two meals per day from the school food service.
- Decreased nutritional value of snacks required by the Tennessee learning camp program; if snacks are not reimbursed, a meal pattern will not have to be met and the nutritional quality of snacks may be diminished as no guidelines for the snack requirement was provided by the learning camp legislation.
- Financial burden placed on struggling LEAs to meet requirements for summer learning camps.

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

- Providing snacks to children who are away from home all day in learning camps. Learning camps are designed to assist with learning loss that occurred as a result of the COVID-19 pandemic which closed schools.
- Increase food security of children and families by providing children snacks outside of current regulatory requirements.
- Increase nutrition quality of snacks provided to children at learning camps.

Expected outcomes of the waiver:

- Allow SFAs to serve breakfast, lunch, and snacks through SSO to maintain streamlined service to students.
- Maintain participation in Child Nutrition Programs.
- Increased nutrition quality of snacks served to students at summer learning camps.
- Maintain support of local economies and continuing to provide economic activity through SFA employees.

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

The state agency is requesting to waive the requirements under the Richard B. Russell National School Lunch Act at 42 U.S.C. 1761(b)(2) which states any service institution may serve only lunch and breakfast or a supplement during each day of operation.

Further USDA Policy Memo SP 09-2017, 2017 Edition of Questions and Answers for the National School Lunch Program's Seamless Summer Option, answer 41 states: At open, restricted open, and closed enrolled sites: a maximum of two meals, such as lunch and breakfast, or lunch and one snack, breakfast and one snack, or one snack and supper may be claimed per child per day.

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

Allowing SFAs to serve snacks along with breakfast and lunch through SSO allow more students access to the snack program while permitting SFAs to operate summer programs to ease administrative burden.

Monitoring will be completed by the state agency; each SFA implementing the waiver will be required to keep records and documentation of snacks served. SFAs will be monitored by the state agency staff; SFA notification of utilizing the waiver will occur through the online application process. 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 and local education agencies. Fewer districts will be able to appropriately provide snacks to students. Not granting the waiver will ultimately decrease the number of snacks 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]:** Although the waiver will result in increased costs as the total number of meals available to children will be increased, according to section 2202(a) of the Families First Coronavirus Response Act (FFCRA) waivers are not subject to Section 12(l)(1)(A)(iii) of the NSLA.

**10. Anticipated waiver implementation date and time period:** The waiver will be implemented for the duration of the ability to operate summer feeding programs during the regular school year.

Implementation date requested: May 1, 2021

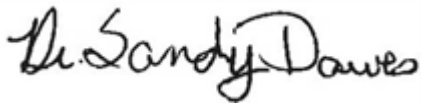
Time period requested: September 30, 2021

**11. Proposed monitoring and review procedures:** Each SFA is monitored during the regular administrative review process. SFAs that wish to utilize the waiver will apply through the standard online program application process.

**12. Proposed reporting requirements (include type of data and due date(s) to FNS):** Reporting would be considered through Qualitative data regarding waiver implementation will also be collected including impact on services, including providing nutritious snacks, 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-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: [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:**