

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, State Nutrition Director
710 James Robertson
Pkwy Andrew Johnson
Tower, 10th floor
931-797-6981
Bill.Byford@tn.gov

2. Region: Southeast Region

3. Eligible service providers participating in waiver and affirmation that they are in good standing: At this time there are no service providers to affirm, as the waiver is for unanticipated school closures. However, SFAs wishing to claim reimbursements under this waiver will only be approved if 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]: Tennessee also is looking to get approval for the following flexibilities:

- The state agency is looking to absolve the non-congregate meal service during

unanticipated school closures requirements associated with 42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(i)(15). The state agency is looking to absolve the non-congregate meal service during unanticipated school closures requirements associated with Non-Congregate Meal Service [NSLA, 42 U.S.C. 1753(b)(1)(A) and Child Nutrition Act, 42 U.S.C. 1773(b)(1)(A)].

- The state agency is looking to absolve requirements found in 42 U.S.C. 1761(f)(3) and 7 CFR 210.10(a), 220.2 (Breakfast), 220.8(a), 225.2 (Meals), and 225.9(d)(7) pertaining to parent and guardian meal pick-up during unanticipated school closures.
- The state agency is looking to absolve meal service times for unanticipated school closures found in 7 CFR 225.16(c)(1), (2), and (3). The state agency is looking to absolve requirements related to Meal Service Times 7 CFR 210.10(l) and 220.8(l).
- The state agency is looking to absolve requirements associated with Offer Versus Serve [42 U.S.C. 1758(a)(3) and 7 CFR 210.10(e)].
- The state agency is looking to absolve service of meals at school sites for unanticipated school closures [42 U.S.C. 1761(c)(1) and 7 CFR 225.6(h)(1)(iv)].

Challenges without the waiver:

- Increase in childhood hunger during unanticipated school closures as there will be less flexibilities available to serve children. With school closed and no virtual learning or virtual learning, many students will not have access to transportation services provided by school on a normal school day to get to school to pick up available meals.
- Increased administrative burden to SFAs to comply with regulations.
- Potential increase in food waste for school nutrition programs, due to limited access to meals during meal service times for children during unanticipated school closures.

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

- Decreased administrative burden to SFAs.
- Allowing meals to be served in non-congregate meal service settings.
- Allowing meals to be served at school sites.
- Allowing meals to be served at one time during the day vs two separate mealtimes.
- Allowing parents and guardians to pick up meals for students.
- Maintained SFA and site participation.

Expected outcomes of the waiver:

- Continue to allow SFAs to serve meals at school and non-school sites during unanticipated school closures and help ensure children do not experience a lapse in food security.

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

[Section 12(l)(2)(A)(i) of the NSLA]: Section 13(c)(1) of the NSLA (42 U.S.C. 1761(c)(1)) requires that meals served to children not in school during an unanticipated closure may only be reimbursed by FNS if the meals were served in congregate meal service settings [42 U.S.C.

1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(i)(15)], [NSLA, 42 U.S.C. 1753(b)(1)(A) and Child Nutrition Act, 42 U.S.C. 1773(b)(1)(A)], students must pick up the meals [42 U.S.C. 1761(f)(3) and 7 CFR 210.10(a), 220.2 (Breakfast), 220.8(a), 225.2 (Meals), and 225.9(d)(7)], and meals must be served at appropriate meal times [7 CFR 225.16(c)(1), (2), and (3)] and [7 CFR 210.10(l) and 220.8(l)], and OVS is to be implemented according to 7 CFR 210.10(a), 220.2 (Breakfast), and 220.8(a). Also, the department is looking to waive requirements regarding service of meals at school sites for unanticipated school closures [42 U.S.C. 1761(c)(1) and 7 CFR 225.6(h)(1)(iv)].

6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring: The state agency will continue to follow previously published guidance from FNS including, but not limited to, FNS Policy Memo: SP 04-2020, CACFP 03-2020, SFSP 03-2020 Meal Service During Unanticipated School Closures.

The online application system currently utilized to approve SSO applications has an option for SFAs to select that the site will be used to serve meals during unanticipated school closures. Waiver request forms will be utilized to maintain SFA usage of each waiver flexibility.

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

If the waiver is not granted, program operations will be impacted by limiting the number of SFAs that have the capacity to serve meals during unanticipated school closures as some SFAs only serve meals at school sites, which may not be feasible during unanticipated school closures without the requested flexibilities above. Not granting the waiver may ultimately decrease the number of meals served to children which will increase food insecurity and childhood hunger. Furthermore, SFAs will have to modify their unanticipated school closure and emergency plans without waiver implementation.

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 issues.

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 when school is closed unexpectedly by allowing meals to be served at school and non-school sites with multiple flexibilities.

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(I)(1)(A)(iii) of the NSLA]: The waiver will not result in increased program costs. The waiver may help save money due to more efficient meal services through the requested flexibilities.

10. Anticipated waiver implementation date and time period: The waiver will be implemented upon approval by USDA on an as needed basis. As the waiver is for unanticipated closures, specific dates of implementation cannot be predicted at this time.

Implementation date requested: February 2023

Time period requested: End of School Year 2023

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.

Each SFA will report to the state agency the number of sites implementing the waiver and the number of meals served at each site where the waiver is utilized.

11. Proposed reporting requirements (include type of data and due date(s) to FNS): Meals served under the waiver will be claimed and reported monthly and quarterly via FNS 10, 523, and 777 reports. If the waiver is implemented, the following quantitative data will be collected: number of SFAs utilizing the waiver, number of school sites that serve meals during unanticipated school closures, and meals served by each sponsor. Qualitative data regarding waiver implementation will also be collected including impact on services, including providing nutritious meals, to recipients/participants.

12. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(I)(1)(A)(ii) of the NSLA]: <https://www.tn.gov/education/snp-resources/snp-forms.html>

13. Signature and title of requesting official:

Bill Byford

Digitally signed by Bill Byford
Date: 2023.02.07 15:53:04
-06'00'

State Nutrition Director

Requesting official's email address for transmission of response: 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(I)(1)(A)(ii) of the NSLA

Regional Office Analysis and Recommendations: