

## **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:**

At this time there are no service providers due to the waiver being related to school building closures with and without virtual learning, which are scheduled at the district level or considered unanticipated. 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]:** According to program regulations found at 7 CFR 225.6(e)(15) and 7 CFR 226.19(b)(6)(iii), Child Nutrition Program meals must be served in a congregate setting and must be consumed by participants on site. However, when the school buildings are closed and virtual instruction is offered, also considered remote instruction days, students are not at school. To provide access to food for children during virtual learning days/remote instruction days (when the building is closed), Tennessee is requesting the flexibilities to allow for non-congregate feeding and to provide flexibilities with meal-time requirements found in 7 CFR 210.10(l), 7 CFR 220.8(1), and 7 CFR 226.20(k). By allowing non-congregate meals, in conjunction with meal-time flexibilities, it would allow meals to be served at the school on remote learning days for those students that wish to participate in the school nutrition meals programs. Tennessee is also seeking to request parent/guardian meal pick up

flexibilities found in 7 CFR 210.10(a), 220.2 (Breakfast), and 220.8(a), and offer versus serve flexibilities found in 42 U.S.C 1758(a)(3) and 7 CFR 210.10(e) during school building closing with virtual learning available.

Tennessee is also looking to address unanticipated school closures with no virtual learning options. The following flexibilities would allow for meals to be served to students during unanticipated school closures:

- Non-Congregate Meal Service during Unanticipated School Closures [42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D)]
- Parent and Guardian Meal Pick-Up: Parent and Guardian Meal Pick-Up during Unanticipated School Closures [42 U.S.C. 1761(f)(3) and 7 CFR 210.10(a), 220.2 (Breakfast), 220.8(a)]
- Service of Meals at School Sites for Unanticipated School Closures 42 U.S.C. 1761(c)(1)
- Meal Service Times [7 CFR 210.10(l) and 220.8(l)]

Challenges without the waiver:

- Decrease in participation
- Inability to serve meals during unanticipated school closures

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

- Decreased administrative and operating burden to SFAs by allowing the non-congregate feeding and meal time flexibilities listed above
- Increase access to food for children

Expected outcomes of the waiver:

- Allow SFAs to serve meals in non-congregate settings with appropriate flexibilities due to unanticipated school closures
- Maintained participation in Child Nutrition Programs
- Maintained 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).**

SSO Unanticipated School Closures (Schools buildings are closed **with no virtual learning**). The waivers in this section apply SSO during unanticipated school closures, when school buildings are closed and virtual classes are not offered.

- Non-Congregate Meal Service during Unanticipated School Closures [42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D)]
- Parent and Guardian Meal Pick-Up: Parent and Guardian Meal Pick-Up during Unanticipated School Closures [42 U.S.C. 1761(f)(3) and 7 CFR 210.10(a), 220.2 (Breakfast), 220.8(a)]
- Service of Meals at School Sites for Unanticipated School Closures 42 U.S.C. 1761(c)(1)
- Meal Service Times [7 CFR 210.10(l) and 220.8(l)]

National School Lunch Program and School Breakfast Program (School buildings are closed **with virtual learning**). The waivers in this section are intended to provide needed flexibility to support SFAs in continuing to offer nutritious meals when school buildings are closed, and virtual classes are being offered.

- 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)]
- Meal Service Times [7 CFR 210.10(l) and 220.8(l)]
- Parent/Guardian Meal Pickup [7 CFR 210.10(a), 220.2 (Breakfast), and 220.8(a)]
- Offer Versus Serve [42 U.S.C. 1758(a)(3) and 7 CFR 210.10(e)]

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

No new technology would be needed, SFAs wishing to utilize this waiver, will complete a state waiver request form and must be approved by the state agency prior to implementation.

Monitoring will be completed by the state agency; each SFA implementing the waiver will be required to keep records and documentation of meals served to students. The state agency monitoring will be accomplished by either a desktop review or through routine administrative review procedures.

If the waiver is not granted, school nutrition personnel will be going into cafeterias to prepare meals for students that will be working remotely/virtually for both breakfast and lunch meal service times. This seems to be a waste of resources. Being able to consolidate the time it takes staff to prepare meals and to serve meals to students that may come in on remote/virtual instruction days would benefit school nutrition programs much more.

If the waiver is not granted, program operations will be impacted by limiting the number of SFAs that have the capacity to serve during remote/virtual instruction days and during unanticipated school closures. 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]:** There are not any regulatory barriers that the state agency has authority to address at this time.

**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 regard to program operations, staffing issues, and congregate feeding/meal-time concerns relating to remote/virtual instruction days and unanticipated school closures.

**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 upon approval by USDA.

Implementation date requested for SSO Unanticipated School Closure flexibilities: **October 1, 2023**

Time period requested for SSO Unanticipated School Closure flexibilities: **April 30, 2024**

Implementation date requested for school buildings closed with virtual classes offered flexibilities: **Immediately upon USDA approval**

Time period requested for school buildings closed with virtual classes offered flexibilities: **June 30, 2024**

**11. Proposed monitoring and review procedures:** Each School Food Authority is monitored during the regular administrative review process or through desktop review as needed, if not scheduled for a review this school year.

**12. Proposed reporting requirements (include type of data and due date(s) to FNS):** Meals served under the waiver will be claimed via NSLP meals and reported monthly and quarterly via FNS 10, 543, and 777 reports. If the waiver is implemented, the following quantitative data will be collected: number of SFAs utilizing the waiver, number of sites that serve meals utilizing the approved flexibilities. 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: [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:**