

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
10th Floor
Nashville, TN 37243
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 to affirm, as the waiver is for remote learning days, which are scheduled at the district level. 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]: Child Nutrition Program operating the National School Lunch Program meals must be served in a congregate setting and must be consumed by participants on site. However, on remote instruction days, students are not at school. As stated in Tennessee Code Annotated 49-6-3004(i)(7), under the new law, meals must be made available during remote instruction days. Current waivers approved by USDA for this school year for COVID would not apply under the Tennessee statute. Therefore, meals need to be made available at school at the same time and served in the same manner as if remote instruction was not occurring. To provide access to food for children during remote instruction days, 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). 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.

Challenges without the waiver:

- Decrease in participation.
- Barriers to meeting the state statute to provide meals during remote instruction days.

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.
- Addressing state statute requirements during remote instruction days.
- Increase access to food for children.

Expected outcomes of the waiver:

- Allow SFAs to serve meals in non-congregate settings, with meal-time flexibilities until June 30, 2023.
- Maintained participation in Child Nutrition Programs.
- Maintained support of local economies and continuing to provide economic activity through SFA employees.
- Address state requirements to provide meals during remote instruction days; including days that schools may shift to virtual learning due to, as stated in the law; dangerous or extreme weather conditions or of serious outbreaks of illness affecting or endangering students or staff.

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. 1753(b)(1)(A) and the Child Nutrition Act 42 U.S.C. 1773(b)(1)(A), Child Nutrition Program meals must be served in a congregate setting and must be consumed by participants on site. We are also requesting to waive the requirements found in 7 CFR 210.10(l) and 7 CFR 220.8(1), which require school meals to be offered during designated meal service times, over two service periods (lunch between 10 a.m.-2 p.m. and breakfast to be served at or near the beginning of the school day).

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 for the remote instruction days.

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. SFAs will be monitored a minimum of one time per school year utilizing a desktop monitoring process. 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 attending remotely 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 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 instruction days. 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 instruction days.

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 for SFAs that operate under remote instruction days and must provide meals for the remainder of the school year.

Implementation date requested: Immediately upon approval, December 2022

Time period requested: June 30, 2023

11. Proposed monitoring and review procedures: Each School Food Authority is monitored during the regular administrative review process or through desktop review 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 during remote instruction days. 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:

Title: School Nutrition State Director

Requesting official's email address for transmission of response: 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: