

## **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 to affirm, as the waiver is for remote learning days, which are scheduled at the district level. However, School Food Authorities (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]:**

Challenge:

Local Education Agencies (LEAs) may schedule 2 remote learning instruction days per semester during the school year.

As stated in Tennessee Code Annotated 49-6-3004(i)(7), under the new law, meals must be made available during remote instruction days.

- 100% remote learning
  - School buildings will be closed, and remote learning will occur

Goal: Allow nutrition personnel to create boxed meals with all required components of the meal to be served to senior high school aged students without having to implement Offer vs Serve (OVS).

Expected Outcomes: To improve effectiveness and efficiency of school nutrition program operations during remote instruction days and to ensure participants have access to nutritious meals during remote learning days and help maintain/improve overall participation of the National School Lunch Program (NSLP).

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

Tennessee Department of Education School Nutrition Program requests a waiver of regulations at 7 CFR 210.10(e) requiring school nutrition programs to operate Offer v. Serve (OVS) to senior high school students at lunch. The state agency is requesting the flexibility of high school OVS to help decrease food waste, and to increase operational efficiency during remote instruction days. If this waiver request is approved along with the parent pick up waiver Tennessee has requested, the complementary flexibilities will allow school nutrition programs to work most efficiently during remote instruction days.

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

If approved, TDOE School Nutrition Program will provide technical assistance to SFAs on processes and procedures in operating the NSLP to maintain accountability and program integrity. SFAs are familiar with operating under the nationwide waivers that have allowed OVS flexibilities due to COVID-related situations. Under this waiver, SFAs will document their process for ensuring that meals are distributed appropriately and that duplicate meals are not distributed. TDOE School Nutrition Program will require SFAs to document the use of this waiver to the state agency via an electronic submission process. There are no impacts on technology, state systems, or monitoring.

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 school meals to students in an effective way. Not granting the waiver may ultimately increase food waste and decrease 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 nor the state with implementation of the waiver. The implementation of the waiver will alleviate potential challenges regarding program operations faced by school food authorities and barriers posed by the state law requirement of serving meals during remote instruction days aligning with NSLP regulations. This waiver will reduce the challenges faced by schools and communities where students are attending school remotely due to remote instruction days, which will help to ensure access to nutrition meals for students.

**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]:**

Approval of this waiver will not increase the overall cost of the program to the federal government. There are no additional staff costs to implement this waiver.

**10. Anticipated waiver implementation date and time period:** The waiver will be implemented as soon as it has been approved for the remainder of the 2022-2023 school year to accommodate the remote instruction days.

Implementation date requested: Immediate upon approval, January 2023

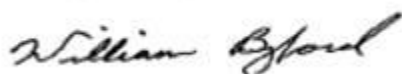
Time period requested: June 30, 2023

**11. Proposed monitoring and review procedures:** TDOE School Nutrition Program will provide technical assistance for SFAs to ensure compliance. Each SFA will be monitored during the regular administrative review process.

**12. Proposed reporting requirements (include type of data and due date(s) to FNS):** TDOE School Nutrition Program will report to FNS any requested or required information. A summary of the use of this waiver by local program operators will be kept on file at the department.

**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: [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:**