

PUBLIC NOTICE OF:

CHILD NUTRITION PROGRAM STATE WAIVER REQUEST

Non Congregate Feeding During Unexpected Building Closures and Virtual Learning for the NSLP/SBP/SFSP/SSO Due to Emergencies and Natural Disasters

The Mississippi Department of Education-Office of Child Nutrition is requesting a waiver of:

congregate feeding requirements in the NSLP/SBP, SFSP, and SSO for SFAs in the State of Mississippi due to emergencies and natural disasters.

The full waiver request is attached.

For any questions, please contact Scott Clements at sclements@mdek12.org.

Posted: 3/27/23



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:

Mississippi Department of Education
Office of Child Nutrition
Scott Clements, State Director
sclements@mdek12.org
601-576-5000
500 Greymont Ave, Jackson, MS 39202

2. Region:

Southeast (SERO)

3. Eligible service providers participating in waiver and affirmation that they are in good standing:

The SA requests a waiver for operators statewide. The SA will ensure that each operator seeking to serve meals under the waiver is in good standing when the operator's request is made.

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]:

During unexpected school closures due to tornado outbreak, children may need access to meals in a non-congregate setting on days when virtual instruction is offered.

This waiver would allow Mississippi school sites, with approval of the SA, to implement non-congregate feeding models and parent pick-up models in the NSLP, SBP when the school building is unexpectedly closed and virtual instruction is offered. Sites utilizing this waiver must demonstrate to the satisfaction of the SA that they can serve safe meals despite the challenges created by the weather event.

This waiver would also allow Mississippi school sites, with approval of the SA, to implement non-congregate feedings models and parent pick-up models in SFSP and SSO Unanticipated School Closures when school buildings are closed with no virtual learning. Sites utilizing this waiver must demonstrate to the satisfaction of the SA that they can serve safe meals despite the challenges created by the weather event.

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

[Section 12(l)(2)(A)(i) of the NSLA]:

SFSP and SSO Unanticipated School Closures (Schools buildings are closed with no virtual learning).

The waivers in this section apply to SFSP and SSO during unanticipated school closures, when school buildings are closed and virtual classes are not offered. These waivers would be effective through April 30, 2023.

- Non-Congregate Meal Service during Unanticipated School Closures [42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(i)(15)]
- 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), 225.2 (Meals), and 225.9(d)(7)]
- Meal Service Times for Unanticipated School Closures [7 CFR 225.16(c)(1), (2), and (3)]
- 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)]

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 school food authorities (SFAs) in continuing to offer nutritious meals when school buildings are closed, and virtual classes are being offered. These waivers would be effective through June 30, 2023.

- 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:

During times of unexpected school building closure / virtual instruction, the SA has developed an application process which allows SFAs to describe their need for continued service and their operational plans for feeding children which include any non-congregate service models (student pick up, parent pick up, bus delivery). The SA utilizes paper forms that supplement the information necessary in the online application and payment system - which are not designed for unexpected school closures/ virtual instruction or non-congregate feeding programs. The SFA must demonstrate that they can offer meals safely despite the challenges posed by the weather event (i.e. power outages, boil water notices, etc). The SA will provide technical assistance to SFAs as needed to ensure adherence to federal guidelines for counting and claiming and ensuring meals are only served to eligible, enrolled children. The SFA will maintain records of the non-congregate meals served during unexpected closures/virtual instruction for inspection by the SA. The SA would closely monitor and limit the length of time that the non-congregate waiver is applied at each site so that it is only used to the extent that it is necessary.

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 SA is taking steps to address regulatory barriers by filing this statewide waiver request and notifying the affected areas of the availability of non-congregate feeding during unexpected school closure / virtual instruction due to the weather event.

8. Anticipated challenges State or eligible service providers may face with the waiver implementation:

Because these flexibilities will be available to experienced SFAs, challenges are expected to be minimal. The SA will be responsive to the needs of SFA implementing this waiver, including providing guidance and best practices on obtaining accurate meal counts by eligibility category for each meal served to enrolled children. Additionally, the SA will set clear expectations for parent pick-up procedures and practices that are acceptable (i.e. no consolidated pick up, parents must pick up meals at the school where each child is enrolled; meal counting and claiming must account for eligibility status of each child).

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]:

Implementation of this waiver will not increase costs because meals will be provided to eligible children enrolled in eligible sites. These children would have received a meal through the CN programs if the school was offering traditional (as opposed to virtual) instruction.

10. Anticipated waiver implementation date and time period:

The waiver will be implemented as soon as it is approved. The SA is requesting the waiver through June 30, 2023.

11. Proposed monitoring and review procedures:

The SA will provide training, technical assistance and complete compliance reviews as required by USDA requirements.

12. Proposed reporting requirements (include type of data and due date(s) to FNS):

The SA will retain all documentation related to the waiver and monitoring procedures and will provide it to USDA as required and upon request.

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.mdek12.org/OCN/New-USDA-Waivers-and-Extensions>

14. Signature and title of requesting official:



Signature

State Director

Title

scléments@mdek12.org

Requesting official's email address for transmission of response

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: March 27, 2023

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:

SERO is submitting the waiver request with a recommendation of approval.