

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST – Meal Service Time Restrictions Pursuant to 7 CFR
225.16(c)(1) and (2)
3/17/2020

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 the USDA to waive requirements for State agencies or eligible service providers under certain circumstances. State agencies and eligible service providers should 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.

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, Office of Child Nutrition
sclements@mdek12.org; 601-576-5000 (please e-mail any questions as MDE physical offices are closed through 3/20/2020)

2. Region: Southeast

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

The Mississippi Department of Education (the MDE) is requesting that the US Department of Agriculture (USDA) grant a waiver from the provisions of 7 CFR 225.16(c)(1) and (2), setting forth time restrictions for Summer Food Service Program meal services *during unanticipated school closures*. The MDE is requesting that this waiver apply to service providers that are in good standing and need flexibility with meal service times to meet the needs of their individual Summer Food Service Program meals during unanticipated school closures.

If granted, the MDE is requesting that the USDA grant it authority to determine if a sponsor should be approved to implement meal service time flexibilities. The MDE submits that it is in the best position to review Mississippi's School Food Authority and other sponsor requests to implement meal service time flexibilities since it is familiar with the operation of the sponsors through the application and administrative review processes. The MDE confirms that it will make these determinations fairly and uniformly.

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST – Meal Service Time Restrictions Pursuant to 7 CFR 225.16(c)(1) and (2)
March 17, 2020
Page 2

The MDE affirms that only sponsors in good standing will be authorized to participate in the waiver. Program operators are deemed to be in good standing for the purpose of this waiver if they have not been declared seriously deficient in the past two years.

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(I)(2)(A)(iii) and 12(I)(2)(A)(iv) of the NSLA]:

Challenge to Solve:

On October 11, 2018, the USDA issued Policy Memorandum SFSP 01-2019, which rescinded Policy Memorandum SP 10-2017, SFSP 06-2017, Meal Service Requirements in the Summer Meal Program. Under the provisions of this latter Policy Memorandum, the requirements contained in 7 CFR 225.16(c) of three hours elapsing between the beginning of one meal served, including snacks, and the beginning of another meal service were waived. It also waived the meals service durational requirements in 7 CFR 225.16(c)(2). The reinstatement of these prior flexibilities would facilitate the efficient operation of the SFSP during unanticipated school closures for many sponsors by allowing sponsors to adjust their meal service times based on the needs of the children in their community and their own method of service.

Without the meal service time flexibilities, SFAs and other program operators may not be able to operate the program during unanticipated school closures, and/or may not be able to serve as many children (or as many meals to those needy children).

Goal of the Requested Waiver:

If granted, this waiver will result in sponsors being better able to efficiently and effectively operate their Programs to align with their organization's service hours and the needs of the children in the community during unanticipated school closures. This will result in greater long-term benefits to the Program and the children, those we all ultimately serve. Sponsors, which will be approved for this waiver, will be able to expand their community outreach efforts and serve more children through meal service time flexibilities.

From an integrity standpoint, the MDE anticipates that sponsors in good standing will continue to appropriately monitor their sites as necessary to ensure and maintain operational integrity. The MDE will also provide monitoring during administrative reviews to further enhance integrity.

Expected Outcomes:

This waiver will further Program priorities and meet the needs of program operators by allowing them to request approval from the MDE for meal service time restrictions during unanticipated school closures. This will allow specific sponsors meal service flexibilities to maximize the number of children served. Without such flexibility, some Mississippi

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST – Meal Service Time Restrictions Pursuant to 7 CFR 225.16(c)(1) and (2)
March 17, 2020
Page 3

sponsors may not serve during unanticipated school closures or may serve fewer meals and/or needy children.

5. Specific Program requirements to be waived (include statutory and regulatory citations). [Section 12(l)(2)(A)(i) of the NSLA]:

The MDE is requesting a waiver from the requirements of Section 225.16(c)(1) and (2) of Title 7 of the Code of Federal Regulations that provides,

- (1) Three hours must elapse between the beginning of one meals service, including snacks, and the beginning of another, except that 4 hours must elapse between the service of a lunch and supper when no snack is served between lunch and supper. The service of supper shall begin no later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances. These waivers shall be granted only when the State agency and the sponsor ensure that special arrangements shall be made to monitor these sites. In no case may the service of supper extend beyond 8 p.m. The time restrictions in this paragraph shall not apply to residential camps.
- (2) The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals.

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

If approved, Mississippi sponsors operating during unanticipated school closures will be granted this flexibility without a waiting period, during review of applications. The MDE will evaluate waiver requests for the use of meal service time flexibilities for sponsors according to the following objective criteria:

- Sponsor is in good standing;
- Sponsor has no significant administrative review findings from the prior year;
- Sponsor must provide an explanation of the excessive fiscal and logistical burden of serving meals without the regulatory prescribed amount of elapsed time between meals and/or why the meal service should not be limited to two hours for lunch or supper and one hour for all other meals; and
- Provide the MDE with the alternative meal service time schedule.

Sponsors are required to train and monitor sites to ensure compliance with the meal service times and duration of their sites. The MDE will monitor sponsors' implementation

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST – Meal Service Time Restrictions Pursuant to 7 CFR 225.16(c)(1) and (2)
March 17, 2020
Page 4

of the approved meal service time flexibilities during administrative reviews to ensure the integrity of the Program.

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 MDE does not anticipate any regulatory barriers at the State level.

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

The MDE does not anticipate any challenges with implementation of the waiver as proposed.

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]:

This waiver request will not impact the overall cost of the Program to the Federal Government.

10. Anticipated waiver implementation date and time:

The MDE respectfully requests approval to waive regulatory requirements for a minimum duration of approximately two years, from March 20, 2020 through April 30, 2022. If granted, the MDE will implement the waiver regarding meal service time requirements in 7 CFR 225.16(c)(1) and (2) effective immediately for unanticipated school closures.

11. Proposed monitoring and review procedures:

The MDE will continue to closely monitor sponsors and sites during the application and the administrative review process. All aspects of operation will be reviewed according to regulations and guidance. The MDE will require corrective action as necessary to ensure Program integrity.

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

By December 31 of each year, the MDE will provide a report to FNS of the number of sponsors approved for this waiver, the number of sites included in the waiver, the number of participating children, the criteria used to determine the sponsor's waiver approval and any other requirements established by the USDA.

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]:

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST – Meal Service Time Restrictions Pursuant to 7 CFR 225.16(c)(1) and (2)
March 17, 2020
Page 5

Website link: mdek12.org/ocn/sfsp

Signature and title of requesting officials:

Respectfully submitted,

Scott Clements

State Director
School Nutrition and District Operations Division

Requesting official's email address for transmission of response:

sclements@mdek12.org

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST – Meal Service Time Restrictions Pursuant to 7 CFR 225.16(c)(1) and (2)
March 17, 2020
Page 6

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:**