

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST – Sponsor Monitoring Pursuant to 7 CFR 225.15(d)(2)
and (3)
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 225.15(d)(2) and (3), setting forth sponsor monitoring requirements for Summer Food Service Program meal services. The MDE is requesting that this waiver apply to service providers that are in good standing and need flexibility with monitoring requirements to meet the needs of their Summer Food Service Programs operating during unanticipated school closures.

Only sponsors in good standing with all Child Nutrition programs they operate will be allowed to participate in SFSP during unanticipated school closures. 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(l)(2)(A)(iii) and 12(l)(2)(A)(iv) of the NSLA]:

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Challenge to Solve:

Sponsors serving SFSP meals during unanticipated school closures are doing so on an emergency basis. During the current COVID-19 crisis, many Mississippi sponsors (all of which are SFAs at this time) had 1-2 business days to arrange all logistics for providing non-congregate meal service as soon as possible. Mississippi has a very high rate of children eligible for free and reduced meals. Each day these children are out of school has the potential for severe consequences for their health if they do not have access to the nutritional equivalent of what they would receive at school.

In Mississippi, all sites approved for service during unanticipated school closures are either previous SFSP sites and/or permitted school cafeterias. SFSP regulations require a first-week visit to the feeding sites and a fourth-week monitoring of the sites. During this crisis, it is extremely difficult to ensure all sites will be visited during the first week. In addition, it is unknown how long the schools will be out of session and how long the feeding program will be able to operate.

Goal of the Requested Waiver:

The MDE seeks to change the first-week visit requirement to require sites to be visited in the first 15 days of operation. If a site serves meals for fewer than 15 operating days, the visit requirement is waived. If a site serves meals for more than 15 operating days, but less than four weeks, the week-four monitoring requirement is waived.

If granted, this waiver will result in sponsors being able to spend the first week the program operates arranging critical logistical matters that could not have been arranged in advance due to the emergency nature of the situation. (For example, in the current COVID-19 crisis, most SFAs were informed of school closures lasting 1-2 weeks on the Saturday or Sunday before the closures beginning on Monday.) The sponsors' priority is getting meal service started and effectively notifying the community of the meal service.

From an integrity standpoint, these are experienced sponsors of the USDA Child Nutrition Programs. Due to the nature of the sponsors and sites that the MDE will approve to serve meals under this circumstance, it is very unlikely that significant operational deficiencies would be identified during the first week visit.

Expected Outcomes:

This waiver will allow sponsors to focus on the most critical matters first. Sites will open and children will be fed healthy, meal pattern-compliant meals. The State Agency's intention throughout this process is to streamline the required paperwork and processes to the extent possible, to aid sponsors in fulfilling their intentions of feeding needy children as quickly as possible. Without the waiver, staff time will be diverted from critical operational matters to complete visits for very low-risk sites. Unless the sites operate for fewer than 15 days, the sites will be visited at least once during the unanticipated school

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closure SFSP feeding program. Sponsor administrative staff will provide additional oversight by managing staff, creating compliant menus/ordering food, and communicating with stakeholders.

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 225.15(d)(2) and (3) of Title 7 of the Code of Federal Regulations that provides,

(2) Sponsors shall visit each of their sites at least once during the first week of operation under the Program and shall promptly take such actions as are necessary to correct any deficiencies.

(3) Sponsors shall review food service operations at each site at least once during the first four weeks of Program operations, and thereafter shall maintain a reasonable level of site monitoring. Sponsors shall complete a monitoring form developed by the State agency during the conduct of these reviews.

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

To increase integrity in an evolving situation, Mississippi is only approving experienced SFSP sponsors and/or SFA sponsors to serve meals during unanticipated closures. In addition, the sites being approved are either SFSP sites from the past three years, and/or permitted school cafeterias. (Bus routes that deliver food prepared in the cafeteria are covered under the SFA's permit from the State Department of Health.)

All sponsors serving meals during unanticipated school closures will have the benefit of this waiver. State Agency monitoring will be minimally affected; no new technology needs to be purchased to ensure oversight of this waiver. Staff will be trained on the waiver and how to assess compliance by the sponsors.

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.

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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 sponsor monitoring in 7 CFR 225.15(d)(2) and (3) effective immediately for unanticipated school closures.

11. Proposed monitoring and review procedures:

The MDE will continue to closely monitor sponsors and sites during the 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]:

Website link: mdek12.org/ocn/sfsp

Signature and title of requesting officials:

Respectfully submitted,

Scott Clements

State Director
School Nutrition and District Operations Division

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Requesting official's email address for transmission of response:

sclements@mdek12.org

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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:**