

PUBLIC NOTICE OF:

CHILD NUTRITION PROGRAM STATE WAIVER REQUEST

Non-Congregate Meal Service for Operators when service options limited due to disaster or other reasons

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

The requirement to serve CACFP/SFSP/SSO/NSLP/SBP meals in a congregate setting when congregate meal service operations are limited due to natural disasters or similar unanticipated causes. This waiver will be utilized in situations when school buildings are closed, with or without virtual learning. The SA will approve non-congregate meal operations for up to 10 consecutive operating days. Service options may include parent/guardian pick up, non-traditional meal times, and "straight plate" as opposed to OVS for High School students.

The full waiver request is attached.

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

Posted: 8/31/23



United States Department of Agriculture

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 State Agency (SA) requests a waiver for School District operators statewide. The SA will ensure that each School Food Authority (SFA) and Program Operator seeking to serve meals under the waiver is in good standing when the operator's request is made. The SFA and Program Operator must submit a waiver request to the SA to utilize this waiver. The SA will approve waivers for up to 10 consecutive operating days. If a waiver is still needed after 10 consecutive operating days, SA will submit a request for an extension via email to SERO at least 2 days prior to the expiration of the SFA or Program operator's waiver.

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]:

SAs, SFAs, and Program Operators need a way to quickly respond to unanticipated school closures. Many Local Education Agencies (LEAs) now have the capacity to provide virtual learning options during school building closures and would like to continue to provide NSLP/SBP in a non-congregate setting during the unanticipated school building closure. With this waiver, the SA seeks the ability to approve non-congregate meals in the CACFP/NSLP/SBP with virtual learning for up to 10 consecutive operating days for an SFA or Program operator without prior notice to FNS.

Similarly, SAs, SFAs, and Program operators need a way to quickly transition to SFSP or SSO operations in situations where school buildings are closed and no virtual learning is provided. With this waiver, the SA seeks the ability to approve non-congregate meals in the SFSP/SSO with virtual learning for up to 10 consecutive operating days for an SFA without prior notice to FNS. The goal of the waiver is to provide uninterrupted access to school meals during natural disasters (tornado/flood/hurricane/excessive heat), major municipal water crises, unscheduled major building repairs, court orders related to school safety or other issues, labor management disputes, or similar unanticipated closures. The SA seeks the SFSP portion of the waiver to be effective between October 1, 2023 through June 30, 2024.

SFAs and Program operators will have the ability to seek waivers from the SA which will enable the following service models during unanticipated closure/virtual learning: non-congregate meal service, non-traditional meal service times, parent/guardian pick up, and "straight plate" as opposed to OVS for High School students.

The anticipated outcome is that children will continue to have access to the meals they would receive in school, had the building not temporarily closed.

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 with no virtual learning:

- 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)]

NSLP and SBP Unanticipated School Closures with virtual learning:

- 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)]

CACFP Unanticipated School Closures

- Non-Congregate Meal Service [NSLA, 42 U.S.C. 1766(f)(1)(A) and 7 CFR 226.19(b)(6)(iii)]
- Meal Service Times [7 CFR 226.17a(m)]
- Parent/Guardian Meal Pickup [NSLA, 42 U.S.C. 1766(f)(1)(A) and 7 CFR 226.2 (Meals)]
- Enrichment Activity [NSLA, 42 U.S.C. 1766(r)(2)(B) and 7 CFR 226.17a(b)(1)(ii) and (iii)]

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

The SA will create a streamlined waiver form that will allow the SFA and Program operators to complete and apply for the waiver quickly; and will also allow the SA to process and approve the waiver quickly, so that meal services will not be interrupted. SA staff will work quickly to approve applications in the proprietary software system MARS if the SFA is making the transition to SFSP/SSO for an unanticipated closure. The SA will monitor (through desk review or in person observations as necessary) the operations at the SFA or Program operator to ensure they are abiding by all federal regulations and that operations do not continue past the allowable 10 consecutive days, unless extended by USDA.

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. If this waiver is approved, SFAs and Program operators will face fewer regulatory barriers to continue to provide access to meals during a disaster or other unanticipated situation.

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

Because these flexibilities will be available to experienced SFAs and Program operators only, challenges are expected to be minimal. The SA will be responsive to the needs of the SFAs and Program operators 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 in the CACFP/NSLP/SBP).

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 participating in a Child Nutrition (CN) program at eligible sites. These children would have received a meal through the CN programs if the school was open.

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, 2024.

The waiver, as it applies to the SFSP, will be implemented between Oct 1, 2023 through June 30, 2024.

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

sclements@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:

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: