

## **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

Sandy Dawes Ed.D. | State Director of School Nutrition [Sandy.Dawes@tn.gov](mailto:Sandy.Dawes@tn.gov)

### **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 unanticipated school closures. However, 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]:** The Tennessee Department of Education (TDOE) respectfully requests a waiver of the requirement to meet the meal pattern in the Seamless Summer Option of the National School Lunch Program as a result of the emergency declarations issued related to the outbreak of the Coronavirus (COVID-19).

The TDOE has received the following waivers:

- Approved SFSP and SSO sponsors may serve meals to students during unanticipated school closures;
- Approved SFSP and SSO sponsors may serve meals during unanticipated school closure in non-congregate settings; and
- Approved SFSP and SSO sponsors may serve meals outside the pre-approved meal times.

On Saturday March 12, Governor Bill Lee issued Executive Order 14 declaring a state of emergency. The governor urged all schools to shut down immediately, and required all schools to be shut down by March 20, 2020

On March 16, 2020 these waivers were fully extended to the SFAs

Expected outcomes of the waiver:

- Continue to allow SFAs to serve meals at school and non-school sites during unanticipated school closures and help ensure children do not experience a lapse in food security.

**5. Specific Program requirements to be waived:** Today, 98 traditional School Food Authorities, have formally requested to operate under the waivers, these numbers keep increasing as we try and respond to the needs. Of these sponsoring entities, nearly half (37) indicate shortages in items required to serve reimbursable meals including milk and grains (bread, rolls, etc.); some entrée items are also no longer available to SFAs and are limiting production of reimbursable meals in some areas of the state. Major distributors have notified some SFAs their orders will not be filled as originally requested given national demand. The State agency is exercising its authority to waive the requirement for milk on a case-by-case basis

**6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:** Alternative procedures are already in place and will continue if the waiver is not granted. Meals cannot be currently served at school sites during unanticipated school closures.

**7. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(I)(2)(A)(ii) of the NSLA]:** Prior to rescission of this specific waiver, the state had allowed meals to be served at school sites during an unanticipated school closure. The rescission creates regulatory barriers that would otherwise not be in place and cannot be improved without a waiver from USDA.

**8. Anticipated challenges State or eligible service providers may face with the waiver implementation:** As it becomes more difficult (or impossible) for SFAs and sponsoring entities to meet the meal pattern requirements, there is concern these critical service providers may no longer be able to serve reimbursable meals to the State's most vulnerable children and students, because they are unable to claim those meals for reimbursement, thus exacerbating the existing crisis.

For this reason, the TDOE respectfully requests the authority to waive the meal pattern requirements in these programs. We fully intend to communicate with SFAs and sponsoring entities advising them of the priority to serve reimbursable meals when food supplies make such possible. Our intent is to offer the most nutritious meals to children.

Thank you for your consideration of our needs and your genuine commitment to help us overcome any barriers that prevent the service of meals to the state's most vulnerable population

**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]:** The waiver will not result in increased program costs. The waiver may avoid additional costs in travel expenses by allowing meals to be served at school sites, where prepared, if the school site is accessible during an unanticipated school closure.

**10. Anticipated waiver implementation date and time period:** The waiver will be implemented upon approval by USDA on an as needed basis. As the waiver is for unanticipated closures, specific dates of implementation cannot be predicted at this time.

**11. Proposed monitoring and review procedures:** Monitoring will be completed by state agency; each SFA implementing the waiver at school sites will be monitored a minimum of one time per school year when weather conditions permit. If an SFA is operating more than one site under the waiver, not all sites will be required to be monitored. Monitoring will be accomplished by site visits and a checklist will be utilized to assure proper procedures are being followed. Results of the monitoring checklist will be documented within the online application system. Each SFA will report to the state agency the number of sites implementing the waiver and the number of meals served at each site where the waiver is utilized.

**12. Proposed reporting requirements (include type of data and due date(s) to FNS):** Meals served under the waiver will be claimed via SSO meals and reported monthly and quarterly via FNS 10, 523, and 777 reports. If the waiver is implemented, the following quantitative data will be collected: number of SFAs utilizing the waiver, number of school sites that serve meals during unanticipated school closures, and meals served by each sponsor. Qualitative data regarding waiver implementation will also be collected including impact on services, including providing nutritious meals, to recipients/participants.

**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>

**Tennessee Department of Education**  
**Sandy Dawes Ed.D. | State Director of School Nutrition**

Title: Training Coordinator and Program Specialist  
Requesting official's email address for transmission of response: Sandy.Dawes@tn.gov

**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:**

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