

MATTHEW L. BLOMSTEDT, PH.D., COMMISSIONER



TEL 402.471.2295
FAX 402.471.0117



P.O. Box 94987
Lincoln, NE 68509-4987



education.ne.gov



On June 22, 2022, the Nebraska Department of Education requested waivers to selected requirements of the National School Lunch and Breakfast Programs, Summer Food Service Program, and the Child and Adult Care Food Program. These waiver requests will be used during SY2022-23 for necessary adjustments required by the COVID-19 pandemic. The waivers are specific to the requirements outlined in the waiver request and accompanying waiver checklist below.



United States Department of Agriculture

CHILD NUTRITION PROGRAM

Waiver for the National School Lunch Program Verification Reporting and Recordkeeping Requirements

1. State agency submitting waiver request and responsible State agency staff contact information:

Nebraska Department of Education
800 S 84th Street
Lincoln, Nebraska 68510
Kayte Partch, Director
Child Nutrition Programs
kayte.partch@nebraska.gov
402-560-8187

2. Region:

Mountain Plains Region

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

Any Nebraska Department of Education (NDE)-approved sponsor who meets all the following requirements:

- In good standing; and
- Approved by the NDE to operate a Child Nutrition Program.

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]:

As sponsors continue to respond to and recover from the COVID-19 pandemic and its consequences, including rising costs, supply chain issues, and staffing shortages, it is important to reduce administrative burden when and where possible. The NDE wants to support sponsors by providing administrative and operational flexibilities while maintaining program integrity in providing nutritious meals during COVID-19 response.

The NDE is planning to provide extensive technical assistance and training in the coming months on several regulatory and operational aspects of the meal programs. A reduction in regulatory requirements will help both sponsors and the NDE better meet the needs of our customers and program participants.

Challenges Without the Waiver

- Sponsors continue to face uncertainty in how to best streamline operations while continuing to respond to pandemic related challenges, especially supply chain disruptions and staffing shortages. Without these waivers, sponsors will expend resources on activities that could be more wisely used to address the challenges that have the most direct effects on providing meals to students and children.
- Program participation tends to see reduced participation as COVID-19 cases ebb and flow, and case loads increase with most new variants. We're expecting an increase in caseloads in the fall months as Americans move back to more indoor activities. We need to be prepared to allow specific flexibilities as needed to adjust to the possible challenges that await SY2022-23.
- Food insecurity will continue to be an issue for students and children as the price of consumer goods has increased and families will have to make difficult decisions on how they spend money. Preparing sponsors to support food security is imperative.

Goal of Waiver to Improve Services

- The goal is to decrease, within reason and allowability, administrative burdens sponsors experience during SY2022-23 when they will be transitioning back to "normal" program requirements. Despite efforts to transition back to normal operations, supply chain and labor shortages continue to pose challenges; the requested waivers will allow for additional flexibility when needed.

- By relieving administrative pressure, sponsors can focus on communicating changes to families, identifying and implementing best practices for distributing applications to families and reminding them to complete the meal application, and for training staff to accept and approve meal applications. The reduced administrative burden may also serve as a valuable resource to conserve while schools navigate other COVID-19-related challenges; responding to emerging challenges falls onto the same school staff who have responsibilities in the school meals program.
- Continued flexibilities during meal service including non-congregate meal service, parent/guardian meal pickup, meal service times, and offer versus serve provide sponsors the options they need to continue seamless meal provision and to be able to pivot to new meal service models required in response to COVID-19.
- Flexibilities allowed in these waivers allow sponsors to maintain program participation which serves as an effective strategy to minimize hunger in the local communities.
- Allow the NDE staff to focus on targeted technical assistance and training for sponsors with new staff navigating challenges as a result of supply chain and staffing shortages.

Expected Outcome of Waiver

- Sponsors will have an opportunity to transition back to normal operations over a longer period of time, which will help ensure consistent meal access and existing staff will have the time and capacity to support new staff. Adequate support for new staff is required in order to reduce the burden and consequences related to staff turnover.
- Sponsors will implement flexibilities, as needed, to minimize the negative impact on program participation that can be caused by COVID-19.
- Simplify program administration for the sponsors so they can focus on the highest priority needs of their program/sites.

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

See attached checklist.

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

If approved, the NDE will allow and utilize operational flexibilities outlined in the attached waiver checklist. These waivers will reduce the administrative burden, allow for efficient and effective oversight of program operations, and allow sponsors to meet the needs of their communities. There are not any foreseen significant impacts on technology, state systems, or monitoring.

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]:

There are currently no state level regulatory barriers related to this request for flexibilities.

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

The NDE does not anticipate any challenges would come from the flexibilities afforded from approval of these waivers.

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]:

The waiver will not increase the overall cost of the program to the Federal Government.

10. Anticipated waiver implementation date and time period:

The anticipated statewide implementation start date is upon approval from the USDA and is to remain in effect through dates identified on the attached checklist.

11. Proposed monitoring and review procedures:

Monitoring of sponsors performance under the requested waivers will follow administrative review regulations for each program. This practice will be consistent with 7 CFR 210, 215, 220, 225, and 226 review requirements.

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

No later than October 30, 2023, the NDE will report to the USDA the number of sponsors that utilized the flexibilities outlines in the waivers requested.

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]:

See waiver request at www.education.ne.gov/ns.

14. Signature and title of requesting official:



Title: Director, Child Nutrition Programs

Requesting official's email address for transmission of response: Kayte.partch@nebraska.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 Recommendation

Summer 2022 and SY 2022-23 Child Nutrition Programs 12(l) Waiver Checklist

State Agency:

Date:

**Longest effective dates are in italics; actual effective dates are contingent on date of approval*

Summer Food Service Program (SFSP) and Seamless Summer Option (SSO):

The waivers in this section apply to SFSP and SSO for summer 2022. However, FNS expects that flexibilities under the waivers in this section will only be implemented by Program operators when congregate meal service is limited by the COVID-19 pandemic.

- Waiver 1: Non-Congregate Meal Service during Summer 2022 [42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(e)(15)] (*May 1, 2022-September 30, 2022*)
- Waiver 2: Parent/Guardian Meal Pickup during Summer 2022 [42 U.S.C. 1761(f)(3), 7 CFR 210.10(a), 7 CFR 220.2, 7 CFR 220.8(a), 7 CFR 225.2 (Meals), and 7 CFR 225.9(d)(7)] (*May 1, 2022-September 30, 2022*)

National School Lunch Program (NSLP) and School Breakfast Program (SBP):

The following waivers are intended to provide needed flexibility to support school food authorities (SFAs). FNS expects that flexibilities under the waivers in this section will only be implemented by Program operators when congregate meal service is limited by the COVID-19 pandemic.

- Waiver 3: Non-Congregate Meal Service [42 U.S.C. 1753(b)(1)(A) and 42 U.S.C. 1773(b)(1)(A)] (*July 1, 2022 – June 30, 2023*)
- Waiver 4: Parent/Guardian Meal Pickup [7 CFR 210.10(a), 220.2 (Breakfast), and 220.8(a)] (*July 1, 2022 – June 30, 2023*)
- Waiver 5: Meal Service Times [7 CFR 210.10(l) and 220.8(l)] (*July 1, 2022 – June 30, 2023*)
- Waiver 6: Offer Versus Serve [42 U.S.C. 1758(a)(3) and 7 CFR 210.10(e)] (*July 1, 2022 – June 30, 2023*)

School Year Administration (NSLP/SBP/SFSP):

The following waivers allow State and local Program operators to overcome administrative challenges resulting from COVID-19 and to appropriately allocate their limited staffing resources to ensure safe service of meals to children as they respond to and recover from the COVID-19 pandemic. FNS expects Program operators will only use these flexibilities for the duration and extent that they are needed.

- Waiver 7: Local School Wellness Policy Triennial Assessment [42 U.S.C. 1758b(b) and 7 CFR 210.31(e)(2)] (*July 1, 2022 – June 30, 2023*)
- Waiver 8: Food Service Management Company (FSMC) contract duration [7 CFR 210.16(d), 7 CFR 225.6(h)(7)] (*July 1, 2022 – June 30, 2023*)
- Waiver 9: Administrative Review Onsite Requirements [7 CFR 210.18] (*End of PHE** – June 30, 2023*)

- Onsite Requirement for SFA Onsite Reviews by February 1 [7 CFR 210.8(a)(1) and 220.11(d)(1)] (*End of PHE** – June 30, 2023*)
- Onsite Requirement for Afterschool Care Reviews [7 CFR 210.9(c)(7)] (*End of PHE** – June 30, 2023*)
- Onsite Requirement for Periodic Onsite Visits when Utilizing an FSMC [7 CFR 210.16(a)(3) and 220.7(d)(1)(iii)] (*End of PHE** – June 30, 2023*)

Reporting Requirements (NSLP):

The following waivers allow State and local Program operators to appropriately allocate their limited staffing resources to meal service to best ensure safe service of meals to children as they respond to and recover from the COVID-19 pandemic.

- Waiver 10: FNS-874 Second (Independent) Review of Applications [42 U.S.C. 1769(c)(b)(6)(E)(iii) and 7 CFR 245.11(b)(2)] (*July 1, 2022 – June 30, 2023*)
- Waiver 11: FNS-640 Administrative Review Data Report [42 U.S.C. 1769c(b)(1)(c)(iv) and 7 CFR 210.18(n)] (*July 1, 2022 – June 30, 2023*)

Special Milk Program (SMP):

The following waivers are intended to provide needed flexibility to support schools and institutions in continuing to offer milk. FNS expects that flexibilities under the waivers in this section will only be implemented by Program operators when congregate milk service is limited by the COVID-19 pandemic.

- Waiver 12: Non-Congregate Milk Service [42 U.S.C. 1772(a)(1) and 7 CFR 215.1] (*July 1, 2022 – June 30, 2023*)
- Waiver 13: Parent/Guardian Milk Pickup [42 U.S.C. 1772(a)(7), 7 CFR 215.7(d)(2)(i), and 7 CFR 215.13a(a)] (*July 1, 2022 – June 30, 2023*)

Fresh Fruit and Vegetable Program (FFVP):

The following waivers are intended to provide needed flexibility to support schools in continuing to participate in the FFVP. FNS expects that flexibilities under the waivers in this section will only be implemented by Program operators when the FFVP elementary school is closed for in-person instruction and congregate meal service is limited by the COVID-19 pandemic.

- Waiver 14: Parent/Guardian FFVP Pickup [42 U.S.C. 1769a] (*July 1, 2022 – June 30, 2023*)
- Waiver 15: Alternate Site [42 U.S.C. 1769a(a)] (*July 1, 2022 – June 30, 2023*)

Unanticipated School Closures:

The waivers in this section apply to SFSP and SSO during unanticipated school closures. FNS expects that flexibilities under these waivers will only be implemented by Program operators when congregate meal service is limited by the COVID-19 pandemic.

- Waiver 16: Non-Congregate Meal Service during Unanticipated School Closures in SY 2022-23 [42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(e)(15)] (*October 1, 2022 – April 30, 2023*)

- Waiver 17: Parent and Guardian Meal Pick-Up during Unanticipated School Closures (SFSP/SSO) [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)] (*October 1, 2022 – April 30, 2023*)
- Waiver 18: Meal Service Times for Unanticipated School Closures in SY 2022-23 [7 CFR 225.16(c)(1) and 225.16(c)(2)] (*October 1, 2022 – April 30, 2023*)
- Waiver 19: Meals at School Sites for Unanticipated School Closures in SY 2022-23 [42 U.S.C. 1761(c)(1) and 7 CFR 225.6(d)(1)(iv)] (*October 1, 2022 – April 30, 2023*)

Child and Adult Care Food Program (CACFP):

The waivers in this section apply to CACFP. FNS expects that operational flexibilities under these waivers will only be implemented by Program operators when congregation is limited by the COVID-19 pandemic. FNS expects that monitoring flexibilities will only be implemented when pandemic conditions interfere with the ability of State agencies and sponsoring organizations to conduct reviews onsite.

- Waiver 20: Non-Congregate Meal Service [42 U.S.C 1753(b)(1)(A) and 7 CFR 226.19(b)(6)(iii)] (*July 1, 2022 – June 30, 2023*)
- Waiver 21: Parent/Guardian Meal Pick-Up [7 CFR 226.2 (Meals)] (*July 1, 2022 – June 30, 2023*)
- Waiver 22: Meal Service Times [7 CFR 226.20(k)] (*July 1, 2022 – June 30, 2023*)
- Waiver 23: State Agency Onsite Monitoring Visits [7 CFR 226.6(b)(1) and 226.6(m)(6)] (*End of PHE** – June 30, 2023*)
- Waiver 24: Sponsoring Organization Onsite Monitoring Visits [7 CFR 226.16(d)(4)(iii)] (*End of PHE** – June 30, 2023*)

Additional Flexibilities (NSLP/SBP):

The following waivers provide needed flexibility and allow State and local Program operators to overcome challenges resulting from COVID-19. FNS expects Program operators will only use these flexibilities for the duration and extent that they are needed.

- Waiver 25: Paid Lunch Equity [42 U.S.C. 1760(p)(2) and 7 CFR 210.14(e)] (*July 1, 2022 – June 30, 2023*)
- Waiver 26: Use of Prior Year Eligibility Determinations for School Year 2022-2023 Carryover [42 U.S.C. 1758(b)(C) and 7 CFR 245.6(c)(2)] (*July 1, 2022- June 30, 2023*)

** Current nationwide waivers of onsite monitoring for NSLP, SBP, and CACFP remain in effect until 30 days after the end of the Public Health Emergency (PHE). The end of the PHE will be declared by the U.S. Department of Health and Human Services.