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On June 29, 2022, the Nebraska Department of Education requested a waiver to the congregate meal service requirement for outdoor Summer Food Service Program (SFSP) sites when the National Weather Service issues a Severe Heat Warning for the area in which affected SFSP site are located.



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 84<sup>th</sup> Street  
Lincoln, Nebraska 68510  
Kayte Partch, Director  
Child Nutrition Programs  
[kayte.partch@nebraska.gov](mailto: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:

- Operates outdoor SFSP sites in summer 2022; and
- Approved by the NDE to operate the Summer Food Service 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]:**

Excessive heat and humidity Nebraska experiences in the summertime poses a health risk to children visiting SFSP sites for meals. This waiver request aims to ensure provision of nutritious meals using a non-congregate meal service model allowing children to safely receive and consume meals without risk of heat exhaustion or heat stroke. Exceptional heat and humidity can quickly result in heat exhaustion, especially among the youngest participants of the SFSP. Therefore, waiving congregate meal requirements during times of excessive heat and humidity helps reduce the risk of heat exhaustion and heat stroke.

**Challenges Without the Waiver**

- Without this waiver, the risk of children suffering from heat exhaustion and heat stroke is raised if they wish to attend an outdoor SFSP site to receive a meal.
- In some cases, children may opt to not visit an outdoor SFSP site and, instead, go without eating; or instead, perhaps, they consume available convenience foods which are often higher in saturated fat, added sugar, and sodium. For children who are already experiencing or are at risk for food insecurity, convenience foods are a primary energy source that should not displace opportunities for more nutrient-dense SFSP meal/menu options. If the regulatory requirement to serve congregate meals is not waived due to excessive heat, children’s nutritional status could be compromised.

**Goal of Waiver to Improve Services**

- The goal of this waiver is to maintain access to healthy meals for children who otherwise do not have easy access to nutritious foods.
- This waiver’s goal is also to ensure health and safety for SFSP site participants.

**Expected Outcome of Waiver**

- Sponsors will continue to have the opportunity to provide children with summertime meals in a safe manner.

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

7 CFR 225.6(e)(15)

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

If approved, there are no significant impacts on technology or state systems. Site and sponsor monitoring by the NDE will also remain unchanged.

**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 anticipates there is potential for misunderstanding under what circumstances it is allowable to offer a non-congregate meal service. To address this, the NDE will provide detailed written guidance every two weeks to sponsors to facilitate and support proper use of the flexibility afforded with approval of this waiver.

**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 because the same children that would normally attend SFSP sites will remain the same for days when the heat waiver needs to be used compared to days when it is not used.

**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 the last day of SFSP meal service for a given sponsor in the 2021-2022 program year.

**11. Proposed monitoring and review procedures:**

Monitoring of sponsors performance will remain the same; on-site visits will continue to be conducted.

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

No later than October 30, 2022, the NDE will report to the USDA the number of sponsors that utilized the flexibility outlined in this waiver 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]:**

[www.education.ne.gov/ns](http://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



Kayte Partch

Director, Child Nutrition Programs

June 29, 2022

**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**