

# NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

Catherine Truitt, *Superintendent of Public Instruction*

[www.dpi.nc.gov](http://www.dpi.nc.gov)

December 12, 2023

United States Department of Agriculture  
Food and Nutrition Service  
Southeast Regional Office  
61 Forsyth Street, SW, Room 8T26  
Atlanta, GA 20202-3427

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. In accordance with this provision, the North Carolina Department of Public Instruction respectfully requests a waiver to allow School Food Authorities to implement the newly established minimum Identified Student Percentage (ISP) and at to elect participation in the CEP mid-year as prescribed by the Final rule, Child Nutrition Programs: Community Eligibility Provision at 7 CFR, Part 245.9(f)(3)(i) and to

Please see the responses to the required waiver questions:

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

North Carolina Department of Public Instruction (NCDPI)

Dr. Lynn Harvey, Senior Director  
Office of School Nutrition  
[Lynn.Harvey@dpi.nc.gov](mailto:Lynn.Harvey@dpi.nc.gov)  
(984) 236-2901

**2. Region:** Southeast Regional Office

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

The waiver request would apply to School Food Authorities (SFA) that are approved to participate in the National School Lunch Program (NSLP), have at least one year of managing the NSLP and are in good standing with the NCDPI.

**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]:**

Challenge:

The Office of School Nutrition of the NCDPI is requesting a state-wide waiver for an extension of the June 30 deadline for School Food Authorities to declare their intent to elect Community Eligibility Provision (CEP).

**OFFICE OF SCHOOL NUTRITION**

Lynn Harvey, *Ed.D., RDN, LDN, FAND, SNS, Senior Director* | [lynn.harvey@dpi.nc.gov](mailto:lynn.harvey@dpi.nc.gov)  
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AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

This request is in response to the final rule issued September 2023 that reduced the minimum identified student percentage (ISP) necessary to participate in the CEP. Approval of the waiver request will allow newly eligible sponsors and sites to make a mid-year election for CEP participation.

Goal:

The Office of School Nutrition of the NCDPI proposes to extend the deadline for newly eligible SFAs to elect participation in the CEP through March 1, 2024, thus allowing full implementation of the final rule cited above, during the current school year. Achievement of the goal, as reflected in approval of the waiver request, will, ideally, expand access to school meals at no cost to food insecure, vulnerable students. Further, prior experience suggests the stigma associated with a three-tiered system (free, reduced-price, and paid) would be minimized by participation in the CEP.

Expected Outcome:

Approval of the waiver request will achieve the goals stated above and will allow newly eligible SFAs/sites to participate in the CEP, thus increasing access to meals at no cost at school and an overall reduction of the administrative burden associated with the three-tiered system of meal counting and claiming.

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

Extend the deadline for electing to participate in the CEP from June 30 annually through March 1, 2024, in accordance with Section 11(a)(1)(F)(x)(I) of the NSLA, 42 U.S.C. 1759a and FNS regulations at 7 CFR 245.9(f)(4)(i).

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

Alternative Procedures:

The Office of School Nutrition will adjust the annual CEP guidelines for 2022 – 2023 to reflect consistency with the final rule which will expand the deadline for electing to participate in the CEP from June 30, 2023, until March 1, 2024.

Anticipated Impact:

If approved, the waiver will allow newly eligible SFAs and sites to implement the CEP for a portion of the 2023 – 2024 school year. The waiver will also increase access to meals at no cost to students, which will potentially reduce student meal debt (which topped \$4 million in the 2022 – 2023 school year), while also helping to reduce student food insecurity in some areas where high poverty pockets are surrounded by economically well-insulated urban communities that may not ordinarily qualify for CEP participation. The Office of School Nutrition will continue to monitor the district's ISP during technical assistance reviews conducted by Area Consultants and will provide technical assistance (on-site or virtually) to any SFA that elects mid-year CEP participation. The Office of School Nutrition will continue to conduct a thorough review of each district's ISP during the Administrative Review. Approval of the waiver request will not result in a modification to the School Nutrition Technology System, nor will additional significant costs be borne by the Office of School Nutrition.

**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 no state regulatory barriers associated with the CEP.

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

No challenges are anticipated for Office of School Nutrition with waiver implementation. The Office of School Nutrition is requesting this waiver at the behest of eligible SFAs within the State. Eligible SFAs may face unanticipated consequences related to program revenues when the reimbursement for meals served is significantly lower than the cost associated with CEP implementation with significantly lower ISP. The Office of School Nutrition is providing technical assistance in a manner that clearly establishes the expectation for local education authorities to be responsible for costs associated with implementation of the CEP participation where expenditures (salaries, benefits, food, supplies other direct and indirect costs) may significantly exceed revenues from meal reimbursements.

**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]:**

There is no anticipated impact on Federal administrative costs for the Office of School Nutrition of the NCDPI associated with the implementation of this waiver given the program/initiative is an outcome of Federal law.

**10. Anticipated waiver implementation date and time period:**

The waiver implementation will begin once the waiver is approved and will remain in effect until March 1, 2024. Any SFA approved to participate will be approved to do so through the completion of the school year.

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

The Office of School Nutrition will provide training and technical assistance for SFAs in the CEP requirements and deadlines. Compliance with CEP administrative, accountability and program integrity requirements assessed through routine technical assistance reviews and Administrative Reviews.

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

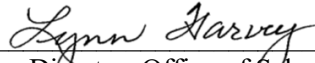
On September 15, 2024, the Office of School Nutrition will report to FNS a summary of the waiver outcomes. The summary will include the names of SFAs and/or sites that exercised the waiver and a synopsis of whether and/or how the waiver improved services to program participants, including students.

**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]:**

The link to the waiver request is located at:

<https://www.dpi.nc.gov/districts-schools/district-operations/school-nutrition/regulation-and-policy#WaiversWaiverRequests-4730>

**14. Signature and title of requesting official:**



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Title: Senior Director, Office of School Nutrition

Requesting official's email address for transmission response:

[Lynn.Harvey@dpi.nc.gov](mailto:Lynn.Harvey@dpi.nc.gov)

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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:**

LH:dm