



**North Carolina Department of Public Instruction
Summer Food Service Program Waiver Request
Meal Service During Unanticipated School Closures
May 1, 2022**

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements. However, 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. 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.

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 and District Operations
Lynn.Harvey@dpi.nc.gov; 984-236-2901; and

Jennifer L. Bailey, Section Chief, Summer and Special Nutrition Programs
Jennifer.Bailey@dpi.nc.gov; 984-236-2914

2. Region: Southeast Regional Office

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

If the US Department of Agriculture (USDA) grants a waiver to the North Carolina Department of Public Instruction (NCDPI) allowing school sites to serve meals for reimbursement during unanticipated school closures, School Food Authorities (SFAs) will be able to serve nutritious meals to more children when extreme weather or other events outlined in USDA Policy Memorandum SFSP 03-2020 force North Carolina Schools to close.

The NCDPI affirms that only SFAs in good standing will be able to participate in the waiver. SFAs are in good standing if they have had no serious deficiencies declared in their most recent review cycle.

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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 to Solve:

On November 5, 2019, the US Department of Agriculture (USDA) issued Policy Memorandum SP 04-2020, CACFP 03-2020, SFSP 03-2020, which provided updated guidance on the flexibilities available during unanticipated school closures. This memorandum supersedes SFSP 18-2016, *Meal Service During Unanticipated School and Day Care Closures*, September 9, 2016. This latter memorandum allowed meals to be served at school sites without requiring submission of individual waivers for USDA approval. The USDA determined that this memorandum was inconsistent with the provisions of Section 12(l) waiver requirements of the Richard B. Russell National School Lunch Act, 42 USC 1760(l).

On December 3, 2019, The North Carolina Department of Public Instruction (NCDPI) requested to waive the requirement that during unanticipated school closures, Summer Food Service Program (SFSP) and National School Lunch (NSLP) Seamless Summer Option (SSO) meals must be served at non-school sites. On February 3, 2020, FNS approved NCDPI's waiver request to operate SFSP and SSO meal service at school sites during unanticipated school closures through April 30, 2022. On April 1, 2022, FNS approved NCDPI's waiver request to operate SFSP and SSO meal service at school sites during unanticipated school closures through April 30, 2023. NCDPI is currently requesting an extension of the waiver approval through April 30, 2025.

North Carolina's weather frequently causes the closure of schools. North Carolina's coast is almost entirely made up of narrow, low-lying barrier islands. As history has proven, these islands are particularly vulnerable to storm surges from hurricanes and tropical storms. Much of the mainland in eastern North Carolina is also likely to flood from heavy rains because the land is flat and the water table high. Flooding also periodically occurs in the mountainous region, often leading to landslides. Tornadic activity and earthquakes have historically caused significant damage resulting in the closure of schools.

North Carolina is also subject to severe winter weather bringing snow, ice, sleet and overall hazardous conditions that result in the closure of its schools and restricting travel of school buses on rural and secondary roads, often long after the winter storm has passed.

With the rescission of this memorandum, a flexibility that facilitated the efficient operation of the SFSP during times of extreme weather or other events in North Carolina has been removed. Schools are typically located in communities that is accessible to children. Therefore, children who would have received nutritious meals at

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these school sites may now experience a lapse in food security when they most need assistance.

Should the waiver to extend approval not be granted, fewer SFSP sites will be available during unanticipated school closures and SFSP meal participation throughout North Carolina will be adversely affected. This would result in thousands of children not receiving the nutrition to which they are entitled, which will ultimately produce a negative impact on children's health, well-being and academic success.

Goal of the Waiver to Improve Services under the Program:

If the waiver is granted, SFAs will continue to operate the SFSP during extreme weather or other events that force area schools to close, and thousands of children will continue to receive nourishing meals during periods when school is not in session.

Expected Outcomes, if granted:

If granted, this waiver will further Program priorities and meet the needs of the children in North Carolina's communities by allowing SFAs to continue to operate and provide nutritious meals to children during natural disasters and other unscheduled closures. Program integrity will not be compromised.

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

With the issuance of Policy Memorandum SP 04-2020, CACFP 03-2020, SFSP 03-2020 on November 5, 2019, the flexibilities available during unanticipated school closures in SFSP 18-2016, *Meal Service During Unanticipated School and Day Care Closures*, September 9, 2016, were superseded. The NCDPI is requesting a waiver of the provisions in Policy Memorandum SP 04-2020, CACFP 03-2020, SFSP 03-2020 to allow SFAs to continue to serve meals at the school sites so frequently used to provide nutritious meals to North Carolina's children during unanticipated school closures.

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

Regarding any required alternative procedures and the anticipated impact on Program operations if the USDA grants the waiver approval extension, NCDPI does not anticipate any required Program operational changes, including those affecting technology, State systems and monitoring.

NCDPI will continue to review both SFA and other sponsor site applications during the application process to ensure these sites are ready in the event of unanticipated school closures as it has done under the now rescinded Policy Memorandum SFSP 19-2016, *Meal Service During Unanticipated School and Day Care Closures, September 9, 2016*. The NCDPI will continue to pre-approve SFAs to operate emergency meal sites during

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unanticipated school closures during their initial application process, ensuring a rapid response when an emergency arises. If the waiver is not granted, it is anticipated that a reduction in the number of sites and meals served during unanticipated school closures will result for North Carolina.

NCDPI will integrate training into the annual mandatory training for all summer nutrition program sponsors to explain the waiver to ensure regulatory compliance. This will be followed with monitoring of the SFAs and other sponsors through the Administrative Review process to ensure ongoing compliance.

A secondary and less critical impact is a financial one requiring the NCDPI to modify its online application system to restrict SFAs from requesting approval to serve meals through the SFSP during times of unanticipated school closures.

NCDPI anticipates a significant adverse impact on the children of North Carolina if the USDA does not grant a waiver allowing SFAs to serve much needed meals during unanticipated school closures. As history has demonstrated, SFAs are major providers of nutritious meals to children during unanticipated school closures in North Carolina. SFAs have provided thousands of meals to children to ensure that children do not experience a lapse in food security when extreme weather or other events force North Carolina's schools to close. The waiver would allow any approved SFSP site to serve during unanticipated school closures rather than only non-school sites, significantly expanding the service of meals to children during unanticipated school closures.

Through approval of the waiver, thousands of nutritious meals will be served to North Carolina's children through the SFSP during unanticipated school closures, which frequently occur. The sustainability of the Summer Nutrition programs during these critical times will ultimately enhance children's health, well-being and academic success.

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 NCDPI does not anticipate any regulatory barriers at the state level.

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

The NCDPI does not anticipate any challenges with implementation of the waiver.

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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]:

This request will not impact the overall cost of the Program to the Federal Government.

10. Anticipated waiver implementation date and time:

NCDPI respectfully requests expedited approval of this waiver for a minimum duration from May 1, 2023, through April 30, 2025. If granted, NCDPI will implement the waiver at midnight on May 1, 2023 as feasible.

11. Proposed monitoring and review procedures:

NCDPI will continue to closely monitor program operators and sites during the application and administrative review process. All aspects of operation will be reviewed according to regulations and guidance. NCDPI will require corrective action as necessary to ensure Program integrity.

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

By August 31st of each year, NCDPI will provide a report to the Southeast Regional Office of the Food and Nutrition Services (FNS) including all data requested by FNS. NCDPI will contact all sponsors potentially affected by the granting of this waiver to solicit the required data. This data will include the number of sponsors, sites and the overall impact of the waiver.

13. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(I)(1)(A)(ii) of the NSLA]:

Website link: <https://www.dpi.nc.gov/districts-schools/district-operations/school-nutrition/sn-news-events>

The goal of these waivers is to reinstate the rescinded flexibilities that allow for efficient and cost-effective program management and reduce the administrative burden for sponsoring organizations and the State Agency.

Notice will be provided to all sponsors via email once the USDA makes its determination on the waivers. Summer Food Service Program and Seamless Summer sponsors do not need to request individual waivers.

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Signature and title of requesting officials:

Respectfully submitted,



Senior Director
School Nutrition and District Operations Division



Section Chief
Summer and Special Nutrition Programs

Requesting official's email address for transmission of response:

Lynn.Harvey@dpi.nc.gov;

Jennifer.Bailey@dpi.nc.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: