

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST – Streamlining Program Requirements and
Improving Integrity in the SFSP
April 28, 2023

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 the USDA to waive requirements for State agencies or eligible service providers under certain circumstances. State agencies and eligible service providers should 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, Director, School Nutrition and District Operations Division
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

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

Waiver approval by US Department of Agriculture (USDA) for the North Carolina Department of Public (NCDPI) of the implementation date of the *Streamlining Program Requirements and Improving Integrity in the SFSP* Final Rule from May 1, 2023 to January 1, 2024, affords the intended beneficiaries, including the State Agency (SA), School Food Authorities (SFAs) and other sponsors, the opportunity to prioritize limited resources to meet the requirements of the newly passed omnibus legislation.

The NCDPI affirms that only SFAs and sponsors in good standing will be able to participate in the waiver. SFAs and other sponsors 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]:

On September 19, 2022, the US Department of Agriculture (USDA) issued the *Streamlining Program Requirements and Improving Integrity in the SFSP* Final Rule with an effective date of October 1, 2022 and implementation date of May 1, 2023.

On Dec. 29, 2022, President Biden signed the Consolidated Appropriations Act, 2023 (the Act) ([PL 117-328](#)). The Act included significant policy changes for Child Nutrition programming, including the authorization of a permanent, non-congregate meal service through the Summer Food Service Program (SFSP) and National School Lunch Program (NSLP) Seamless Summer Option (SSO) for rural areas with no congregate meal service with a required implementation for Summer 2023.

The NCDPI is limited in resources to meet the required implementation timelines for the SFSP Final Rule and the newly passed Omnibus legislation simultaneously and therefore must request a delay of implementation date of the SFSP Final Rule until January 1, 2024.

If granted, the waiver will allow NCDPI and SFAs and other program sponsors to prioritize resources to ensure efficient and accountable implementation of non-congregate meal service in rural areas for the summer of 2023. The SA, SFAs, and other program sponsors will implement immediately manageable SFSP Final rule provisions and continue to plan to implement remaining SFSP Final Rule provisions.

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

The NCDPI is requesting a waiver of the compliance date May 1, 2023, as published in the *Streamlining Program Requirements and Improving integrity in the SFSP* Final Rule, extended to January 1, 2024.

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

The NCDPI will ensure that all SFAs and other program sponsors meet requirements with regards to financial viability, financial management, administrative capability, and program accountability, in addition to continuing to meet all program integrity measures as outlined in regulations while utilizing this waiver.

Existing program application procedures include a thorough review of financial documentation, a proposed program budget, and evaluation of the management plan. A rigorous application approval process in conjunction with program monitoring through technical assistance and administrative reviews ensure program integrity.

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]:

The NCDPI does not anticipate any regulatory barriers at the state level. The NCDPI anticipates approval of the waiver will prioritize resources and promote efficiency in the operation of the Program both at the sponsor and State levels. The sustainability of the Summer Nutrition programs will ultimately enhance children's health, well-being and academic success.

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

NCDPI does not anticipate any challenges with implementation of the waiver of the May 1, 2023 implementation date as requested.

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:

The NCDPI respectfully requests approval of this waiver to delay the compliance date published as May 1, 2023 to January 1, 2024.

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11. Proposed monitoring and review procedures:

NCDPI will continue to closely monitor program operators and sites during the application and administrative review processes. All aspects of operation will be reviewed according to regulations and guidance. The 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):

The NCDPI will include the specific provisions of the rule that were delayed as a part of this waiver to the Southeast Regional Office of the Food and Nutrition Services in the required annual waiver report.

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]:

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

Signature and title of requesting officials:

Respectfully submitted,



Senior Director
School Nutrition and District Operations



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

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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:**