

**CHILD NUTRITION PROGRAM**  
**NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION WAIVER REQUEST**  
**For School Meal Programs for SY 22-23**

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

North Carolina Department of Public Instruction (NCDPI)  
Office of School Nutrition  
301 N. Wilmington Street  
Raleigh, NC 27601  
984-236-2910

Dr. Lynn Harvey, Director, Office of School Nutrition  
[lynn.harvey@dpi.nc.gov](mailto:lynn.harvey@dpi.nc.gov)

Janet Johnson, Assistant Director, Office of School Nutrition  
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**2. Region:** Southeast

**3. Eligible service providers participating in waiver and affirmation that they are in good standing:** NCDPI will use the Risk Assessment completed for all School Food Authorities (SFAs) approved for participation in National School Lunch, School Breakfast Program (NSLP and SBP) to determine if they are in good standing. The Risk Assessment gathers information in all required areas of compliance. All deemed in good standing will be eligible for the waivers and will be required to provide an attestation statement prior to receiving approval for each waiver.

**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(I)(2)(A)(iii) and 12(I)(2)(A)(iv) of the NSLA]:** The NCDPI seeks to support streamlined access to nutritious NSLP and SBP meals. As SFAs transition from Pandemic operations to normal program operations, it is important that they still have opportunities for flexibility with program operations and reduced administrative burden. The goal of the waiver request is to continue to extend necessary flexibilities SFAs and sponsors who provide meal service despite post-COVID-related challenges, including increased food, supply and fuel costs, as well as continued supply challenges caused by a fractured K-12 supply chain. A secondary goal is to reduce the administrative burden on SFAs and sponsoring entities who continue to feel the impact from the these and other post-COVID challenges such as staffing shortages. The NCDPI is mindful that although rates of COVID-19 are declining, COVID-19 is still present in North Carolina and SFAs may need to pivot to Pandemic operations quickly for limited periods of time.

SFAs and sponsoring entities may need the ability to make program changes quickly in order to continue to provide program meals to students. Waiver authority will be extended to SFAs and sponsoring entities on an “as needed basis.”

The expected outcome if this waiver is granted is that SFAs and sponsoring entities will have the ability to create plans for meal service operations in multiple scenarios in advance so that they can act quickly when necessary. The State Agency will have the ability to provide various program flexibilities to sponsors who need to shift program services due to rising rates of infection. The State Agency will also provide technical assistance and training as needed to support implementation of the flexibilities within their intended scope.

- 5. Specific Program requirements to be waived (include statutory and regulatory citations). [Section 12(l)(2)(A)(i) of the NSLA]:** See checklist.
- 6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:** If approved, there are no anticipated 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 no regulatory barriers at the State level.
- 8. Anticipated challenges State or eligible service providers may face with the waiver implementation:** There are no anticipated challenges that the State agency, SFAs or sponsoring entities associated with this waiver request and subsequent implementation.
- 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]:**  
This waiver will not increase administrative and operating costs for SFAs or sponsors and will not increase the overall cost of the program to the Federal Government. The waivers that are requested through this document are not seeking additional federal reimbursement for meals provided. They are simply asking for flexibility in the event that a sudden spread of the COVID variants should cause schools to close for a brief period or to provide households a period of time to transition back to having to cover the cost of meals in the event they do not qualify for free or reduced-price meals through the thirty day carryover or through a paid meal price consistent with that prior to the pandemic).
- 10. Anticipated waiver implementation date and time period:**  
See attached checklist for implementation dates and time periods.
- 11. Proposed monitoring and review procedures:** See attached checklist. Monitoring of SFA and 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):** All FNS required reports will be submitted in a timely manner as specified in USDA requirements.

**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]:**  
<https://www.dpi.nc.gov/districts-schools/district-operations/school-nutrition/regulation-and-policy#waverswaiver-requests>

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



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Title: Director

Requesting official's email address for transmission of 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(I)(1)(A)(ii) of the NSLA**

- **Regional Office Analysis and Recommendations:**

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

**State Agency:** North Carolina Department of Public Instruction

**Date:** 6/30/2022

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

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### **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.