



**North Carolina Department of Public Instruction
Summer Food Service and Seamless Summer Option Programs Waiver Request
USDA Update on Non-Congregate Meal Service for
Outdoor Summer Meal Sites Experiencing Excessive Heat
July 1, 2023**

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

Jennifer 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 non-congregate meal service at certain outdoor summer meal sites experiencing excessive heat or other exceptional circumstances, NCDPI will be able to continue to serve nutritious meals to children that might otherwise forgo meals due to the extreme summer heat experienced in outdoor sites. Upon approval, NCDPI will utilize this authority for summer meal sponsors operating outdoor meal service at sites without a temperature-controlled alternative. These sites will be able to provide a non-congregate meal service on days when the area experiences excessive heat or other exceptional circumstances.

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

NCDPI has participated successfully in all previous Demonstration Projects for Non-Congregate Meal Service for Outdoor Summer Meal Sites Experiencing Excessive Heat. As required, all reporting requirements have been met.

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:

North Carolina's summer temperatures frequently exceed 100 degrees, and the heat index often results in heat advisory, excessive heat warning or excessive heat warning. As a result, outdoor site's attendance is adversely impacted, and participation is lower. North Carolina is also subject to severe weather bringing heavy rains, hail, thunderstorms, and overall hazardous conditions that result in the children not being able to attend an outdoor site.

Goal of the Waiver to Improve Services under the Program:

If the waiver is granted, Sponsors will continue to operate the SFSP outdoor sites will continue to operate sites with strong participation on days when the National Weather Service has issued a heat advisory, an excessive Heat warning, an excessive heat watch and other exceptional circumstances for the area in which an approved outdoor meal site is located.

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

The specific Program requirement to be waived is located under the Richard B. Russell National School Lunch Act at 42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D) and Program regulations at 7 CFR 225.6(e)(15). It directs SFSP and SSO meal sites to serve in a congregate setting and meals must be consumed by participants on site.

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, NCDPI does not anticipate any required Program operational changes, including those affecting technology, State

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systems and monitoring. Currently NCDPI's site applications includes the following questions of eligible sites:

1. Is this site a non-congregate site on excessive heat days?
2. Will required documentation be maintained on file to document excessive heat days?

In addition to answering these questions, sponsor will maintain the National Weather Services records to support excessive heat for the days the waiver is implemented.

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.

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.

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 July 1, 2023, through September 30, 2023.

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:

As requested, NCDPI will provide a report to the Southeast Regional Office of the Food and Nutrition Services (FNS) including all required data. 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, meals served and the overall impact of the waiver.

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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/regulation-and-policy#WaiversWaiverRequests-4730>

The goal of these waivers is to allow NCDPI to grant summer meal sponsors operating outdoor meal service at sites without a temperature-controlled alternative to provide a non-congregate meal service on days when the area experiences excessive heat or other exceptional circumstances

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.

Signature and title of requesting officials:

Respectfully submitted,



Senior Director
Office of School Nutrition



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: