

CHILD NUTRITION PROGRAM STATE WAIVER REQUEST TEMPLATE

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 USDA to waive requirements for State agencies or eligible service providers under certain circumstances. When requesting the waiver of statutory or regulatory requirements for the Child Nutrition Programs (CNP), including the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the National School Lunch Program (NSLP), the Fresh Fruit and Vegetable Program (FFVP), the Special Milk Program (SMP), and the School Breakfast Program (SBP), State agencies and eligible service providers should use this template. 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.

For more information on requests for waiving Program requirements, refer to SP 15-2018, CACFP 12-2018, SFSP 05-2018, Child Nutrition Program Waiver Request Guidance and Protocol- Revised, May 24, 2018.

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

New Jersey Department of Agriculture
Division of Food and Nutrition
Rose Tricario, Director
PO Box 334, Trenton, New Jersey 08625-0334
609-984-0672
rose.tricario@ag.nj.gov

2. Region: Mid-Atlantic Regional Office (MARO)

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

The New Jersey Department of Agriculture (NJDA) requests this waiver for any School Food Authority (SFA) that is in good standing and approved to operate the Seamless Summer Option (SSO) during the mandatory school closures due to the COVID-19 outbreak.

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]:

New Jersey has been one of the hardest hit states, with 29,895 cases and 646 deaths due to the novel coronavirus (COVID-19). As a result, New Jersey Governor Phil Murphy mandated all schools to close in response to the nationwide COVID-19 outbreak on March 18, 2020. On March 21st, Governor Murphy signed Executive Order 107, which directs all residents to stay at home until further notice. Currently, the Governor has extended school closures through April 17th as the COVID-19 cases continue to rise.

At the same time, the economic impact of COVID-19 has been devastating on New Jersey families. As of April 2, 2020, the NJ Department of Labor and Workforce Development reported that a record 206,253 new unemployment claims were filed for the week ending March 28, bringing the two-week total of new claims to just over 362,000, as COVID-19 bore down on the state's workforce and businesses. The number of new claims over the past two weeks far surpassed the Labor Department's highest total of single-week claims in memory.

The extended school closures and the economic impacts of COVID-19 have left children and students across the State who depend on the meals and snacks provided by their schools and care programs with limited or no available alternative sources. While many schools in New Jersey have quickly responded to the needs of their students and are currently providing meals through the available flexibilities for operation during unanticipated school closures and the removal of the congregate feeding requirement, many are struggling to find ways to feed the high need students in their non-area eligible schools.

The New Jersey Department of Agriculture seeks to temporarily suspend area eligibility requirements for SFAs operating the Seamless Summer Option (SSO) through June 30, 2020. New Jersey has a limited number of communities which meet area eligibility criteria based on October 2019 NSLP claims and current census data, with approximately 265 SFAs (554 sites) currently claiming through the SSO Closed Enrolled option. However, there are many communities in New Jersey that service a significant population of high-need children and families, but which do not qualify using current area eligibility criteria. Current area eligibility requirements are increasingly becoming irrelevant as the economic impact of COVID-19 is becoming more widespread throughout the state.

The New Jersey Department of Agriculture is requesting this waiver to align with USDA guidance of targeting children eligible of free and reduced-price meals (SP 08-2020, SFSP 04-2020) and to ensure these children and students are fed. Suspending eligibility requirements during these extenuating circumstances would alleviate a significant financial and administrative burden on schools and community

organizations operating in non-area eligible locations, regional schools, and schools without a geographic attendance area. Additionally, to remain in compliance with guidance from the CDC and the NJ Governor, approving additional sites will alleviate concerns about crowded meal sites locations and support the practice of social distancing.

If this waiver is granted, it would allow all SFAs operating the Seamless Summer Option during COVID-19 school closures to ensure that they can serve the highest need students in their towns and communities who might have limited access to healthful meals during the closure. This would also support families who may be struggling to provide meals to their children when many have lost employment or are underemployed due to required closures of restaurants, bars, gyms, theaters, retail establishments and other community spaces. In addition, it would alleviate the burdens on many school districts struggling to meet the needs of students who do not currently qualify for free or reduced price school meals.

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

7 CFR 225.6(c)(2)(G): “For open sites and restricted open sites, documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist.”

Request:

Allow SFAs in good standing with less than 50% of their enrolled students certified eligible for free or reduced price meals (who are currently approved to operate as Closed Enrolled sites), to operate as Open and/or Restricted Open sites in areas approved by NJDA that are not located in “*Areas in which poor economic conditions exist.*”

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

If approved, NJDA will provide technical assistance to sponsors on the process and procedures for creating accurate site applications and capturing meal service information through the secure online SNEARS portal. Additionally, NJDA will provide training and assistance to support sponsors as they are planning and preparing for meal service, and provide guidance on collecting accurate meal counts, and how to submit claims under the SSO program. There are no significant 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 currently no state level regulatory barriers related to area eligibility.

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

NJDA does not anticipate any challenges at the State or sponsor level with the implementation of this waiver. SFAs with less than 50% of their enrolled students certified eligible for free or reduced price meals (who are currently approved to operate as “Closed Enrolled” sites), would essentially operate the same as area eligible SFAs approved to operate “Open” and/or “Restricted Open” sites. This will allow all non-area eligible SFAs currently targeting their free and reduced price eligible students, to serve and claim free meals for all students in the district.

Alternatively, we anticipate this statewide waiver will support these non-area eligible schools in reaching more families whose economic situations may have been negatively impacted by the COVID-19 pandemic. Children from these at-risk households that attend non-area eligible schools or live in non-area eligible zones will benefit from increased access to meal service.

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]:

The approval of this statewide temporary waiver will not increase the overall cost of the program to the Federal Government since participation in these programs will continue to be significantly lower than the months prior to the COVID-19 crisis.

Additionally, families across the state are practicing self-quarantining and social distancing, therefore participation will be likely limited to the highest need families and overall participation will be lower than the National School Lunch Program. The loss of meals served under NSLP, SBP, and other programs would be offset by the increase of meals served under SSO.

There are no additional staff costs to implement this waiver.

10. Anticipated waiver implementation date and time period:

This waiver will be implemented immediately upon approval, and remain in effect until June 30, 2020, or until expiration of the federally declared public health emergency, whichever is earlier.

11. Proposed monitoring and review procedures:

NJDA will track and provide oversight to all SFAs in good standing that are approved to operate SSO open sites in areas approved by NJDA, but not located in “*Areas in which poor economic conditions exist*”.

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

NJDA will report as required by approval of this waiver request.

No later than July 31, 2020, NJDA will report to USDA the number of SSO sponsors and sites that utilized this waiver, including the number of unanticipated operating days and meals claimed.

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]:

<https://www.nj.gov/agriculture/divisions/fn/childadult/>

14. Signature and title of requesting official:

Signature:  _____

Title: Director, Division of Food and Nutrition, NJDA

Requesting official’s email address for transmission of response: rose.tricario@ag.nj.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:

• Date Received: _____

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:**

- Recommend Approval
- Recommend Denial

Explanation: