



## State of New Jersey

DEPARTMENT OF AGRICULTURE  
HEALTH / AGRICULTURE BUILDING  
PO Box 330  
TRENTON NJ 08625-0330

PHIL MURPHY  
*Governor*  
SHEILA OLIVER  
*Lt. Governor*

DOUGLAS H. FISHER  
*Secretary*

### CHILD NUTRITION PROGRAM/SFSP NEW JERSEY STATE WAIVER REQUEST

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

New Jersey Department of Agriculture (NJDA) Division of Food and Nutrition Summer Food Service Program  
PO Box 330  
Trenton, NJ 08625  
Director: Rose Tricario  
SFSP Coordinator: Tracii Butler Proctor

**2. Region:**

Mid-Atlantic (MARO)

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

The waiver would apply to all non-school approved sponsors.

**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]:**

NJDA is requesting a waiver for the SFSP flexibility that was rescinded by FNS on October 11, 2018 as part of SFSP 01-2019. The flexibility is included in SP 06-2017, Meal Service Requirements in the Summer Meal Programs, with Questions and Answers – Revised December 5, 2016.

The flexibility allows the continued extension of Offer Versus Serve (OVS) to non-school food authority sponsors as originally published in SFSP 11-2011, Waiver of Meal Time Requirements and Unitized Meal Requirements in the Summer Food Service Program Summer, October 21, 2011. The statutory and regulatory provisions authorize the OVS option for school food authority sponsors under section 13(f)(6) of the NSLA, 42 USC 1761(f)(6), and 7 CFR 225.16 (f)(1)(ii). While OVS has been shown to minimize food waste and help

sponsors maintain costs, statutory and regulatory provisions limit the use of OVS to school food authority sponsors.

The goal of this waiver is to reinstate the rescinded Meal Service Requirements in the Summer Meal Programs. The flexibility has benefited sponsors by helping them efficiently operate the SFSP in a cost effective-manner by limiting over production and reducing food waste.

Rescinding this flexibility will place an undue burden on both NJDA and the sponsors. By allowing the flexibility, sponsors can operate cost-efficient programs, reduce food waste and improve meal quality which can increase participation. Rescinding this flexibility would also allow sponsors and the NJDA to continue to focus on integrity and compliance as well as providing technical assistance during normal program operations.

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

NJDA is requesting a waiver to extend the use of Offer Versus Serve to non-school food authority sponsors and to allow Offer Verse Serve with use of both the NSLP and the SFSP meal patters.

Section 13(f)(7) of the NSLA Offer Versus Serve - A school food authority participating as a service institution may permit a child to refuse one or more items of a meal that the child does not intend to consume, under rules that the school uses for school meals programs. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.

42 USC 1761(f)(7) Offer Versus Serve – A school food authority participating as a service institution may permit a child to refuse one or more items of a meal that the child does not intend to consume, under rules that the school uses for school meals programs. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.

7 CFR 225.16(f)(1)(ii) Offer Versus Serve – School food authorities that are Program sponsors may permit a child to refuse one or more items that the child does not intend to eat. The school food authority must app this “offer versus serve” option under the rules followed for the National School Lunch Program, as described in part 210 of this chapter. The reimbursements to school food authorities for Program meals served under the “offer versus serve” must not be reduced because children choose not to take all components of the meals that are offered.

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

Procedures will remain in place. NJDA does not anticipate any impact to Program operations, technology, State systems or monitoring.

It is anticipated that this flexibility will have a positive impact on program operations and monitoring by allowing sponsors to efficiently operate the SFSP in a cost effective-manner by limiting over production and reducing food waste.

**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 NJDA has not had to address any regulatory barriers as this flexibility was in place.

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

The NJDA does not anticipate any challenges to either the NJDA or the SFSP sponsors with this waiver implementation. There will be challenges to both the NJDA and SFSP sponsors if the waiver is not approved which include:

NJDA – Will see a decrease in meal quality, increase in sponsor food costs, food waste, re-training sponsors, possible decrease in sponsor participation, and additional technical assistance and monitoring compliance.

Sponsor – Increase of food costs, decrease in meal quality, food waste, additional training for sites and increased administrative labor costs.

**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 NJDA does not anticipate that this waiver will increase the overall cost of the Program to the Federal government. This waiver will continue to assist sponsors and the NJDA in maintaining a cost-effective meal service.

**10. Anticipated waiver implementation date and time period:**

This waiver would be implemented in June 2020. NJDA SFSP is requesting approval for a 3-period.

**11. Proposed monitoring and review procedures:**

The NJDA will continue to follow standard monitoring and review processes. If the waiver is granted, communication will be shared with sponsors. Should there be any noncompliance issues related to this waiver, the NJDA will work with sponsors on an individualized corrective action plan and will have follow-up reviews when applicable.

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

The NJDA will report to FNS any compliance issues noted with this flexibility during summer monitoring visits.

**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]:**

The public notice is located at [www.state.nj.us/agriculture](http://www.state.nj.us/agriculture)

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

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Title:

Requesting official's email address for transmission of response:

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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:**