

Child Nutrition Waiver Request

Date: August 31, 2023

Non-congregate waivers for unanticipated school closures in National School Lunch Program/School Breakfast Program; Summer Food Service Program/Seamless Summer Option; At-Risk Afterschool component of Child and Adult Care Food Program

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

Lauren E. Moore, Director
Kentucky Department of Education
502-564-5625, ext. 4929
lauren.moore2@education.ky.gov

2. **Region:** Southeast

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

This waiver will apply to School Food Authorities in good standing.

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(1)(2)(A)(iii) and 12(1)(2)(A)(iv) of the NSLA]:**

When schools experience unanticipated closure, the reasons oftentimes impact the ability for food service to provide meals in a congregate setting and the ability for students to eat in a congregate setting. Examples would include weather related closures (i.e., tornado, flooding), structural issues with the school facilities or health issues. Waiver approval will allow for the provision of nutritious meals, while mitigating the factors related to the closure that may impact children's access to a healthy meal.

This waiver will apply to either SFSP or SSO but would not necessarily apply to both at the same time. If a SFA reports a closure due to a situation classified as an unanticipated school closure and the school district is not requiring virtual education, the state agency may provide an unanticipated school closure waiver for that school(s) under the SFSP or SSO using the authority cited below.

If a SFA reports a closure which meets the requirements of an unanticipated school closure, but the LEA is going to require continued virtual education during a building closure, the SA will provide the waiver using the NSLP/SBP authority cited below.

The waiver will apply to the at-risk afterschool component of the Child and Adult Care Food Program during unanticipated school closures.

5. **Specific Program requirements to be waived (including statutory and regulatory citations). [Section 12(1)(2)(A)(i) of the NSLA]:**

SFSP and SSO Unanticipated School Closures (Schools buildings are closed with no virtual learning). The waivers in this section apply to SFSP and SSO during unanticipated school closures, when school buildings are closed, and virtual classes are not offered. These waivers would be effective from October 1, 2023, to April 30, 2024.

- Non-Congregate Meal Service during Unanticipated School Closures [42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(i)(15)]

- Parent and Guardian Meal Pick-Up: Parent and Guardian Meal Pick-Up during Unanticipated School Closures [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)]
- Meal Service Times for Unanticipated School Closures [7 CFR 225.16(c)(1), (2), and (3)]
- Service of Meals at School Sites for Unanticipated School Closures [42 U.S.C. 1761(c)(1) and 7 CFR 225.6(h)(1)(iv)]

National School Lunch Program and School Breakfast Program (School buildings are closed **with virtual learning**). The waivers in this section are intended to provide needed flexibility to support SFAs in continuing to offer nutritious meals when school buildings are closed, and virtual classes are being offered. These waivers would be effective through June 30, 2024.

- Non-Congregate Meal Service [NSLA, 42 U.S.C. 1753(b)(1)(A) and Child Nutrition Act, 42 U.S.C. 1773(b)(1)(A)]
- Meal Service Times [7 CFR 210.10(l) and 220.8(l)]
- Parent/Guardian Meal Pickup [7 CFR 210.10(a), 220.2 (Breakfast), and 220.8(a)]
- Offer Versus Serve [42 U.S.C. 1758(a)(3) and 7 CFR 210.10(e)]

Child and Adult Care Food Program: The waivers in this section apply to the at-risk afterschool component of CACFP only. These waivers are intended to provide needed flexibility to support at-risk afterschool centers in continuing to offer nutritious meals during unanticipated school closures. These waivers are effective through June 30, 2024.

- Non-Congregate Meal Service [NSLA, 42 U.S.C. 1766(f)(1)(A) and 7 CFR 226.19(b)(6)(iii)]
- Meal Service Times [7 CFR 226.17a(m)]
- Parent/Guardian Meal Pickup [NSLA, 42 U.S.C. 1766(f)(1)(A) and 7 CFR 226.2 (Meals)]
- Enrichment Activity [NSLA, 42 U.S.C. 1766(r)(2)(B), 1766a(a)(2)(C) and 7 CFR 226.17a(b)(1)(ii) and (iii)]

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

There is minimal anticipated impact on state systems if this waiver is approved. Technology provides a streamlined method of sponsor request and approval. The state agency will provide guidance to SFAs on what is required for a sponsor to request to utilize the waiver including processes and documentation necessary to maintain for 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]:

No state level regulatory barriers impact implementation of this waiver.

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

The state agency does not anticipate any challenges in implementing this 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(l)(1)(A)(iii) of the NSLA]:

There will be no increased cost to the Federal Government. The number of meals distributed during closures is expected to be equal to or less than the number of meals distributed if the school was not experiencing closure.

10. Anticipated waiver implementation date and time period:

- SFSP and SSO Unanticipated School Closure waivers would be effective from October 1, 2023, to April 30, 2024.
- NSLP and SBP closure with virtual learning would be effective through June 30, 2024.
- CACFP At-Risk Afterschool component would be effective through June 30, 2024.

11. Proposed monitoring and review procedures:

SCN will provide monitoring and oversight of SFA approved waivers using already established review procedures based on applicable program requirements.

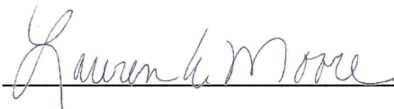
12. Proposed reporting requirements (include type of data and due date(s) to FNS):

Reporting requirements established in the approval by the USDA will be met.

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]:

- School Meal Programs: [USDA Required Reports - Kentucky Department of Education](#)
- Summer Food Service Program: [Summer Food Service Program \(SFSP\) - Kentucky Department of Education](#)
- CACFP: [Child and Adult Care Food Program \(CACFP\) Homepage - Kentucky Department of Education](#)

14. Signature and title of requesting official:



Title: Director, School and Community Nutrition

Requesting official's email address for transmission of response:

lauren.moore2@education.ky.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(I)(1)(A)(ii) of the NSLA

- **Regional Office Analysis and Recommendations:**