MEMORANDUM

TO: Dr. Lilly Bouie, Special Nutrition Programs
   Director USDA Southeast Regional Office

FROM: Angelice Lowe, Director
      Julie Autrey, Education Administrator
      Child Nutrition Programs

DATE: January 19, 2023

RE: Unanticipated School Closure School Year (SY) 2022-2023 Waiver Request

CHILD NUTRITION PROGRAM STATE WAIVER REQUEST TEMPLATE

Child Nutrition Programs (CNPs) are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(1) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1760(1), provides authority for U.S. Department of Agriculture (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 CNPs, 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 (SAs) and eligible service providers should use this template. The SAs and eligible service providers should consult with their Food and Nutrition Service (FNS) Regional Offices when developing waiver requests to ensure that 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: Angelice Lowe, Director, alowe@alsde.edu, and Julie Autrey, Education Administrator, Child Nutrition Programs julie.autrey@alsde.edu

2. Region: Southeast Region
3. Eligible service provider participating in waiver and affirmation that they are in good standing: Alabama State Department of Education (ALSDE) approved sponsor Selma City School District. The SA has ensured that the School Food Authority (SFA) seeking to serve meals under the waiver is 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(I)(2)(A)(iii) and 12(I)(2)(A)(iv) of the NSLA]:

While schools are closed during unexpected school closures due to the severe weather damage on January 12, 2023, children may need access to meals in a non-congregate setting. Selma City School District has experienced tornado damage and power outage at some schools. These waivers are to be used when schools are learning virtually during the unanticipated school closures. This waiver would allow Selma City Schools, with approval of the SA, to implement non-congregate feeding models and parent pick-up models in the NSLP/SBP when the school building is unexpectedly closed. Sites utilizing this waiver must demonstrate to the satisfaction of the SA that they can serve safe meals despite the challenges created by the severe weather damage crisis. The Selma City School District participates in the Community Eligibility Provision, so all students eat at no cost and claiming percentages for reimbursement are applied.

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

- Congregate Meals: National School Lunch Act, 42 USC 1753(b)(1)(A), the Child Nutrition Act, 42 USC 1773(b)(1)(A)
  i. The school district would like to provide multiple meals via buses to five locations in housing projects and communities where students reside, as well as provide meals to pick up at a school site for families that do not live in the sites delivered to.
  i. The school district would like to utilize parent/guardian pickup for five days of meals so that students do not go without a meal during the unanticipated school closure.
- Meal-Time: 7 CFR 210.10(I), 220.8(I),
  i. The school district would like to utilize the meal-time waiver so they can provide multiple meals for multiple days to ease the burden of families having to travel in the surrounding area due to the vast devastation in Selma, Alabama.
- OVS Requirement for HS: 7 CFR 210.10(e)
  i. The school district would like to provide unitized meals with all meal components for all students during the unanticipated school closures.

6. Detailed description of alternative procedures and anticipated impact on program operations, including technology, state systems, and monitoring:
The SFA will be utilizing rosters to ensure program integrity so that students enrolled receive meals and that no duplicate meals will take place.

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]:**
   SA will take steps to address regulatory barriers by submitting waiver requests for Selma City Schools in notifying Selma City the availability of non-congregate meals during unanticipated school closures due to severe weather damage.

8. **Anticipated challenges state or eligible service providers may face with the waiver implementation:**
   No challenges are anticipated for Selma City to implement 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(I)(1)(A)(iii) of the NSLA]:**
   Implementation of this waiver will not increase costs for the Federal Government. Students who currently participate in the program will be participating during the unanticipated school closure.

10. **Anticipated waiver implementation date and time period:**
    The waiver will be implemented as soon as it is approved. The SA is requesting the waiver through June 30, 2023.

11. **Proposed monitoring and review procedures:**
    The SA will provide training, technical assistance and complete compliance reviews as required by USDA requirements.

12. **Proposed monitoring and review procedures:**
    The SA will retain all documentation related to the waiver and monitoring procedures and will provide it to USDA as required and upon request.

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]:**
    We are waiting for a link, once the link is available, we will send USDA SERO a copy.

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

   Angelice Lowe,
   Child Nutrition Programs Director
   Alowe@alsde.edu
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)(A)(ii) of the NSLA

- Regional Office Analysis and Recommendations:
January 20, 2023

Angelice Lowe, Director
Child Nutrition Programs
Alabama State Department of Education
50 North Ripley Street
Montgomery, Alabama 36104-2101

Dear Angelice Lowe:

This letter is in response to the January 19, 2023, waiver request from the Alabama State Department of Education (ALSDE) to allow Selma City School District in Selma, Alabama to serve meals in a non-congregate setting due to damage and power outages caused by a tornado.

On January 12, 2023, a tornado caused severe weather damage in Selma, Alabama, causing some schools in Selma City School District to close. ALSDE requested a waiver under Section 12(I) of the National School Lunch Act (NSLA) [42 U.S.C. 1760] to provide non-congregate, meal service time, offer versus serve in high school, and parent pick-up flexibilities for Selma City School District in order to feed students who are learning virtually during school building closures. This waiver would allow flexibility to support the offering of nutritious meals via the National School Lunch Program (NSLP) and School Breakfast Program (SBP).

Specifically, ALSDE seeks to waive:

- Statutory requirements under the NSLA, 42 U.S.C. 1753(b)(1)(A) and the Child Nutrition Act, 42 U.S.C. 1773(b)(1)(A), which require NSLP and SBP meals to be served in a congregate setting and consumed by participants on site;
- Program regulations at 7 CFR 210.10(a), 7 CFR 220.2 (Breakfast), 7 CFR 220.8(a), which require meals be served to eligible children;
- Program regulations at 7 CFR 210.10(l) and 7 CFR 220.8(l), which require meals in the NSLP and SBP to follow meal service time requirements; and
- Program regulations at 7 CFR 210.10(e), which require senior high schools to participate in offer versus serve (OVS).

After reviewing the waiver request and confirming that ALSDE met the statutory requirements, FNS has determined that approval of the waiver request would facilitate the ability of the State and Selma City School District to carry out the purpose of the Programs. Therefore, FNS approves ALSDE's request for Selma City School District to waive the requirements that NSLP and SBP meals must be served in a congregate setting and consumed by participants on site; that meals may only be served directly to children; that set meal time parameters for school lunch and breakfast; and that senior high schools must participate in OVS.

USDA is an Equal Opportunity Provider, Employer and Lender
FNS recognizes that ALSDE requested these waivers through June 30, 2023; however, FNS is limiting approval of these waivers through February 20, 2023, or until students return to in-person learning, whichever is earliest. The Southeast Regional Office will work closely with ALSDE to determine if an extension is needed and to ensure any extension requests are submitted to the FNS National Office at least two weeks prior to expiration. This will ensure that FNS has adequate time to consider and respond to the extension request before the current approval period expires.

As a reminder, Selma City School District must continue to claim meals according to its approved Community Eligibility Provision claiming percentages.

The waiver authority at Section 12(I) of the NSLA requires FNS to review the performance of any State or eligible service provider that was granted a waiver. Therefore, by May 31, 2023, ALSDE must provide to the FNS Southeast Regional Office a report quantifying the impact of the waiver, as described below. The report must include the following:

- A description of how the waiver impacted meal service operations at schools under Selma City School District’s jurisdiction;
- A description of whether the waiver resulted in improved services to children;
- A description of how the waiver reduced the quantity of paperwork necessary to administer the Program; and
- A summary of benefits and challenges associated with the waiver.

FNS appreciates ALSDE’s commitment to work with Selma City School District to meet the nutritional needs of children during a challenging time. If you have questions, please contact the FNS Southeast Regional Office.

Sincerely,

Heather Hopwood

Digitally signed by Heather Hopwood
Date: 2023.01.20 12:44:25 +05'00'

for

Tina Namian
Director
School Meals Policy Division