



STATE OF ALABAMA
DEPARTMENT OF EDUCATION



Eric G. Mackey, Ed.D.
 State Superintendent of Education

Alabama
 State Board
 of Education

MEMORANDUM

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

Governor Kay Ivey
 President

**FROM: Angelice Lowe, Director
 Child Nutrition Programs**

Jackie Zeigler
 District I

DATE: August 17, 2023

Tracie West
 District II
 Vice President

RE: Unanticipated School Closure School Year (SY) 2023-2024 Waiver Request

CHILD NUTRITION PROGRAM STATE WAIVER REQUEST TEMPLATE

Stephanie Bell
 District III

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 sixty (60) calendar days prior to the anticipated implementation date.

Yvette M. Richardson, Ed.D.
 District IV

Requests submitted less than sixty (60) calendar days prior to the anticipated implementation should be accompanied by an explanation of extenuating circumstances.

Tonya S. Chestnut, Ed.D.
 District V
 President Pro Tem

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.

Marie Manning
 District VI

- 1. State agency submitting waiver request and responsible state agency staff contact information:** Angelice Lowe, Director, alowe@alsde.edu, Child Nutrition Programs
- 2. Region:** Southeast Region
- 3. Eligible service provider participating in waiver and affirmation that they are in good standing:** This waiver will be apply to School Food Authorities and eligible service providers in good standing.

Belinda McRae
 District VII

Wayne Reynolds, Ed.D.
 District VIII

Eric G. Mackey, Ed.D.
 Secretary and
 Executive Officer

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]:

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 and/or the CACFP At-Risk option authority cited below.

5. Specific program requirements to be waived (include 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 October 1, 2023, through 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)]

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(I)(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(I)(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 were not experiencing a closure.

10. Anticipated waiver implementation date and time period:

SFSP and SSO Unanticipated School Closure waivers would be effective from approval through April 30, 2024.

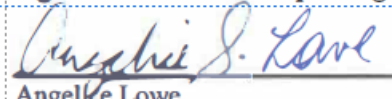
NSLP, SBP and CACFP closure with virtual learning would be effective through June 30, 2024.

11. Proposed monitoring and review procedures:

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

12. 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):

13. Signature and title of requesting official:


Angelke 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:**