



United States Department of Agriculture

**CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST
WA State – Unanticipated School Closures**

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 (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 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:

Leanne Eko, RD, SNS
Chief Nutrition Officer, Child Nutrition Services
Office of Superintendent of Public Instruction – Washington State
PO Box 47200, Olympia, WA 98504
360-725-0410

2. Region: Western Region

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

Sponsors of the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), the NSLP Seamless Summer Option (SSO), and At-Risk Afterschool component of the Child and Adult Care Food Program (CACFP) who are affected by unanticipated school closures.

OSPI CNS will only approve waivers for sponsors 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(l)(2)(A)(iii) and 12(l)(2)(A)(iv) of the NSLA]:**

Challenge:

Sponsors within Washington state have been increasingly impacted by events such as natural disasters and labor disputes, that limit their ability to successfully operate meal programs within program requirements. As a result, sponsors may have to discontinue meal service which impacts the children who rely on these programs for nutritious meals.

Goal:

Meet the nutritional needs of students by allowing schools to provide non-congregate meals during unanticipated school closures. As well as providing meal service at school sites under SFSP/SSO when these sites are operational.

Expected Outcomes:

Provide access to meals for students impacted by unanticipated school closures.

5. **Specific Program requirements to be waived (include statutory and regulatory citations):**

SFSP and SSO

- 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

- 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

- 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:

The OSPI CNS will provide technical assistance to sponsors to clarify the flexibilities that are available in response to these events. We do not expect any challenges from sponsors in implementing these waivers as they were able to utilize similar flexibilities in prior SYs in response to the COVID- 19 pandemic.

Sponsors must submit their waiver request in writing to OSPI CNS and must receive written approval to claim non-congregate meals.

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]:

OSPI has not addressed any Program regulatory barriers at the State level. There are currently no State level regulatory barriers related to this specific issue.

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

OSPI does not anticipate the establishment of these waivers will pose any challenges at the state or sponsor level, since this option was well established in state and sponsor operations during the COVID-19 pandemic.

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]:

We do not anticipate an increase in costs.

10. Anticipated waiver implementation date and time period:

The anticipated waiver implementation dates are August 23, 2023, - September 30, 2024.

11. Proposed monitoring and review procedures:

Implementation of these waivers will be closely monitored by State agency staff. When a sponsor submits a request for serving and claiming non-congregate meals served during unanticipated school closures, OSPI staff will ensure the sponsor is in good standing prior to issuing approval. All requests will be tracked by OSPI, and sponsors must retain counting and claiming documentation that clearly identifies meals were served as non-congregate. OSPI approval will be verified by the State agency monitor during an administrative review, if applicable.

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

OSPI will provide a report by January 1, 2024:

- Participating sponsors by program
- Number of sites that provided non-congregate meals by program
- Number of participating children
- Number of meals served

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]:

We will post a copy of the request on the CNS webpages: [OSPI Child Nutrition Services](#)

14. Signature and title of requesting official :

Jeanne Elew 8/20/2023

Title: Chief Nutrition Officer, Child Nutrition Services, OSPI

Requesting official's email address for transmission of response:

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: