USDA
United States Department of Agriculture

CHILD NUTRITION PROGRAM
South Carolina Department of Education
Summer Food Service Program Waiver Request
Meal Service During Unanticipated School Closures
January 8, 2020

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. 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 SFSP 01-2019, Summer Food Service Program Waiver Recession date October 11, 2018.

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

   South Carolina Department of Education (SCDE)
   Ronald F. Jones, Director, Office of Health and Nutrition
   rfjones@ed.sc.gov; 803-734-8205

2. **Region:** Southeast

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

   This statewide waiver request applies to all SFA 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 to Solve:

On November 5, 2019, the US Department of Agriculture (USDA) issued Policy Memorandum SP 04-2020, CACFP 03-2020, SFSP 03-2020, which provided updated guidance on the flexibilities available during unanticipated school closures. This memorandum supersedes SFSP 18-2016, *Meal Service During Unanticipated School and Day Care Closures,* September 9, 2016. This latter memorandum allowed meals to be served at school sites without requiring submission of individual waivers for USDA approval. The USDA determined that this memorandum was inconsistent with the provisions of Section 12(l) waiver requirements of the Richard B. Russell National School Lunch Act, 42 USC 1760(l).

South Carolina has experienced quite a few school closures over the past few years due to severe wintry weather, hurricanes, heavy rain all of which restrict the safety of schools buses traveling on rural and secondary roads.

The rescission of this memorandum removes the flexibility for South Carolina to operate SFSP during unanticipated school closures due to extreme weather or other events. Schools sites are frequently utilized as shelters in South Carolina during emergencies and children who would have received nutritious meals at these school sites may now experience a lapse in food security when they most need assistance.

If the waiver is not granted, fewer SFSP sites will be available during unanticipated school closures and SFSP meal participation throughout South Carolina will be adversely affected and will result in many children not receiving the nutrition they need.

The SCDE is requesting a state-wide waiver for Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) flexibilities and policies that were rescinded by the USDA Food and Nutrition Service (FNS) on October 11, 2018 through SFSP 01-2019 Summer Food Service Program Memoranda Rescission. These include flexibilities within SFSP 06-2017 Meal Service Requirements in the Summer Meals program, with Q&A – Revised

Goal of the Waiver to Improve Services under the Program:

If the waiver is granted, SFAs will continue to operate the SFSP during extreme weather or other events that force area schools to close and many children will continue to receive nourishing meals they need during periods when school is not in session.

Expected Outcomes, if granted:

If granted, this waiver will further Program priorities and meet the needs of children by allowing SFAs to operate SFSP at school sites and serve the nutritious meals that are needed during unanticipated school closures. Program integrity will not be compromised.

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

With the issuance of Policy Memorandum SP 04-2020, CACFP 03-2020, SFSP 03-2020 on November 5, 2019, the flexibilities available during unanticipated school closures in SFSP 18-2016, *Meal Service During Unanticipated School and Day Care Closures,* September 9, 2016, were superseded. The SCDE is requesting a waiver of the provisions in Policy Memorandum SP 04-2020, CACFP 03-2020, SFSP 03-2020 to allow SFAs to continue to serve meals at the school sites so frequently used to provide nutritious meals to South Carolina's children during unanticipated school closures.

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

SCDE does not anticipate any require Program operations if the USDA grants this waiver.

SCDE will continue to review both SFA and other sponsor site applications during the application process to ensure these sites are ready in the event of unanticipated school closures as it has done under the now rescinded Policy Memorandum SFSP 19-2016, *Meal Service During Unanticipated School and Day Care Closures, September 9, 2016.* The SCDE will continue to pre-approve SFAs to operate emergency meal sites during unanticipated school closures during their initial application process, ensuring a rapid response when an emergency arises. If the waiver is not granted, it is anticipated that a reduction in the number of sites and meals served during unanticipated school closures will result for South Carolina.

SCDE will integrate information about the waiver during the annual mandatory meeting for all SFSP sponsors to ensure regulatory compliance. This will be followed with monitoring of the SFAs and other sponsors through the Administrative Review process to ensure ongoing compliance.

SCDE anticipates that children will be impacted if the USDA does not grant a waiver allowing SFAs to serve much needed meals during unanticipated school closures. The waiver would allow any school and non-school sites to serve meals during unanticipated school closures, significantly expanding the service of meals to children during unanticipated school closures.

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]:**

   SCDE does not anticipate any regulatory barriers at the state level.

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

   SCDE does not anticipate any challenges with implementation of the waiver regarding meal service during unanticipated school closures.

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]:**

   This request will not impact the overall cost of the Program to the Federal Government.

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

    SCDE will implement the waiver immediately upon approval. To avoid the repeat request for the continuance need of this waiver, we request approval until December 31, 2022.

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

    SCDE will continue to monitor program sponsors and sites during the application and administrative review process. All aspects of the Program will be reviewed according to regulation and guidance. SCDE will require corrective action as necessary to ensure Program integrity.

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

Annually, by December 31st, SCDE will provide FNS with all requested data to include the number of sponsors and sites that operated school sites during an unanticipated school closure.

13. Link to a copy of the public notice informing the public about the proposed waiver [Section 12(l)(1)(A)(ii) of the NSLA]:

A copy of the public notice has been sent to the sponsors and will be placed on SCDE's website at:

https://ed.sc.gov/districts-schools/nutrition/special-programs/usda-summer-meal-programs/summer-food-service-program/

14. Signature and title of requesting officials:

Respectfully submitted,

Title: Director, Office of Health and Nutrition

Requesting official's email address for transmission of response:
rfjones@ed.sc.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(l)(1)(A)(ii) of the NSLA

- **Regional Office Analysis and Recommendations:**