USDA
United States Department of Agriculture

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST – Eligibility for Closed Enrolled Sites Pursuant to 7 CFR 225.15(f)
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.

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 state-wide waiver request applies to all eligible sponsors. Summer of 2019, South Carolina had 13 sponsors that operated 60 SFSP closed enrolled sites.

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:

With the rescission of the November 17, 2002 *Summer Food Service Program (SFSP) Waiver for Closed Enrolled Sites,* on October 11, 2018, a flexibility that would lessen the burden for sponsors to add more sites, has been removed.

Section 225.15(f) of Title 7 of the Code of Federal Regulations requires eligibility determinations for closed enrolled sites to be made by submitting household or income applications. The above-mentioned USDA Policy Memorandum allowed the eligibility of closed enrolled sites to also be determined through school or census data.

Requiring sites to determine the eligibility of each enrolled child through household income applications imposes an extreme administrative burden on SFAs and other sponsors. Obtaining, processing, documenting, and maintaining income or household applications requires increased administrative staff time that results in less efficiency in the operation of the Program as well as additional financial burdens. Obtaining these documents, especially in communities where the Community Eligibility Provision is implemented, and household applications are not utilized, will result in delayed eligibility determinations and some economically disadvantaged children may not be served the meals to which they are entitled due to SFAs or sponsors not being able to obtain the required documentation. Current non-SFA sponsors have already expressed concern about their ability to obtain this documentation in a timely manner. Under circumstances where households choose not to apply for free or reduced lunch due to a perceived social stigma, many hungry children may not have access to nutritious meals. In addition to the SFA/sponsor-level burden, the SCDE will also experience greater administrative burdens when monitoring the closed enrolled sites and verifying the accuracy of the closed enrolled status by reviewing the income applications.

For Summer of 2019, there were 60 closed enrolled sites that served approximately 112,384 meals of which many were in needy areas. Several sponsors have expressed grave concerns about this rescission and the negative impact it will have on their current closed enrolled sites'. If this waiver is not granted, fewer sites will participate in the SFSP and meal participation throughout South Carolina will be adversely impacted.

The South Carolina Department of Education 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 and other sponsors will continue to operate their closed enrolled sites with less administrative burden. Without having to review the income applications of each of the closed enrolled sites, the monitoring manpower hours and finances that will be saved by the sponsors can be used to improve their program. Additionally, the saved manpower hours saved by the South Carolina Department of Education can be used to promote the program more statewide and to provide more monitoring and technical assistance to sponsors.

Expected Outcomes, if granted:

If granted, this waiver will further Program priorities and meet the needs of sponsors operating closed enrolled sites by allowing existing closed enrolled sites to continue to operate and provide nutritious meals to children through administrative and financial efficiencies. Program integrity will not be compromised.

In conclusion, to further Program efficiencies, improve outreach and conserve resources, the SCDE is requesting a waiver from the requirements of 7 CFR 225.15(f) to sponsors to utilize the option to establish eligibility for closed enrolled sites one of the ways listed below:

- Available school-level data;
- Census/Averaged Eligibility data;
- Income or Household applications and
- Other types of data to determine area eligibility for a period of five years (e.g., local zoning data, housing authority information, economic surveys, etc.).

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

The SCDE is requesting a waiver from the requirements of Section 13(a)(1)(A)(i)(III) of the NSLA, 42 USC 1761(a)(1)(A)(i)(III) and the regulatory definition of closed enrolled sites, which requires eligibility determinations to be made by submitting applications in accordance with 7 CFR 225.15(f). If granted, closed enrolled sites could be determined eligible for Program participation if located in areas where 50 percent of the children residing in the area are eligible for free and reduced-price meals under the National School Lunch Program and School Breakfast Program.

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

   The SCDE will require sponsors to submit the current year eligibility data to support the closed enrolled site. School or census data will be verified to ensure the data meets regulatory requirements. Closed enrolled sites that establish eligibility based on school or census data would be able to use the data for five years to qualify for the Program.

   Rescinding this allowance leads sponsors to choose between operating an open site or not to operate at all. Some would choose not to operate which would cause a disservice to children who depend upon the nutritional benefit that this program provides during the summer.

   SCDE anticipates a significant impact on Program operates through the granting of this waiver. The number of sponsors will remain constant or increased due to the saved time and finances through this waiver. SCDE will include in each sponsor mandatory training session the requirement of this waiver.

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]:**

   Previously, SCDE has not had to address any regulatory barriers as these flexibilities were in place. Rescission will increase administrative burden for the sponsor and the state as well as create barriers to program access. To address these barriers, the SCDE is submitting this waiver.

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 eligibility of closed enrolled sites as requested.

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:

This waiver is being requested for approval for a minimum duration of three years. If granted, implementation of this waiver will be implemented immediately upon training of our sponsors March of 2020.

11. Proposed monitoring and review procedures:

SCDE will continue to follow the review procedures as outlined and will continue to provide training and technical assistances to sponsors in need of additional guidance in obtaining and implementing eligible meal sites. If noncompliance is identified, the SCDE will implement corrective action plan and conduct follow-up reviews, as needed.

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

Annually, by December 31st, SCDE will provide FNS with required reports to include a list of sponsors, closed enrolled sites based on area eligibility, the number of meals served, and any compliance issues encountered at these sites.

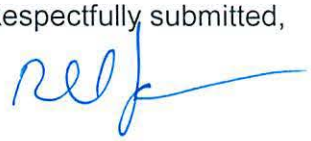
13. Link to a copy of the public notice informing the public about the proposed waiver [Section 12(l)(1)(A)(ii) of the NSLA]:

A copy of the public notice has been sent to the sponsors and will be placed on the 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: