

**South Carolina Department of Education (SCDE)
CHILD NUTRITION PROGRAM
Non-Congregate Meal Service for
Outdoor Summer Meal Sites Experiencing Excessive
Heat June 8, 2022**

Child Nutrition Programs 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, 42 U.S.C. 1760(1), 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*, Month 24, 2018.

1. State agency submitting waiver request and responsible State agency staff

contact information:

South Carolina Department of Education (SCDE)
Mrs. Donna Davis, BA, MHRD, CPM, Division Director
Office of Health and Nutrition
ddavis@ed.sc.gov; 803-734-0080

2. Region: Southeast Region

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

This waiver request applies to all existing SFSP and SSO sponsors that are 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(1)(2)(A)(iii) and 12(1)(2)(A)(iv) of the NSLA]:

South Carolina commonly experiences excessive heat and heat advisories during the

summer months which can reach 100 degrees and above. The extreme temperatures often drastically decrease the number of children attending the congregate meal service. Oftentimes the excessive heat prevents the sites from operating at all. The excessively high temperatures would create a potential barrier to accessible meals if there were no waiver in place.

Without waiver approval, sponsors may have to close their sites that do not have temperature-controlled alternate locations when heat levels reach excessive temperatures, resulting in children not receiving nutritious meals on a consistent basis. Sponsors may also opt to sponsor only sites that are temperature controlled, which would result in pockets of the state having no meal service sites available to serve area children.

Similar to the COVID-19 waiver, granting this waiver would allow SCDE to consider documented situations of being able to serve non-congregate meals in outdoor settings during documented cases of excessively high temperatures.

SCDE is experiencing a decrease in the number of SFSP sponsors participating this year and decreased length of time that SSO sponsors are operating due to the lingering effects of COVID-19; thus decreasing the number of sites. Our goal is to create more awareness and increase the number of nutritious meals served to children across the state at the existing site. Approval of this waiver will assist us with this goal and allow for the consistent service of meals to children despite harsh heat conditions.

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

SCDE requests a waiver of regulations for SFSP 7 CFR 225.6(e)(15) and for SSO- [42 U.S.C. 1753(b)(2)(A) and 42 U.S.C. 1773(b)(1)(A)] which requires a sponsor to maintain children on-site while meals are consumed.

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

If granted a waiver, there will be no significant impacts on technology, state systems, or monitoring.

Sponsors will be required to request approval for a waiver for the applicable site(s) and maintain National Weather Service heat advisory documentation to correspond including the date and number of meals with meals served in a non-congregate setting due to excessive heat advisories within the claim for reimbursement.

The State Agency will issue approval on a case-by-case basis.

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 state-level regulatory barriers related to this specific issue.

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

SCDE does not anticipate any challenges with the implementation of these waivers.

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]:

SCDE does not anticipate any increased costs to the Federal Government with the approval of these waiver requests.

10. Anticipated waiver implementation date and time period:

The anticipated statewide implementation start date is upon approval from USDA and is to remain in effect through May 1, 2024.

11. Proposed monitoring and review procedures:

Monitoring of sponsors' performance under the requested waivers will follow administrative review regulations for the Program. This practice will be consistent with 7 CFR 225 requirements. SCDE will require sponsors to complete a form requesting approval to participate in the waiver. Only outdoor sites without temperature-controlled alternate sites will be eligible for non-congregate meal service under the waiver.

Sponsors will be required to submit a copy of the site's meal count sheet and documentation supporting the non-congregate meal services resulting from a National Weather Service's (NWS) heat advisory, excessive heat warning, or excessive heat watch. The state agency will track the number of meals served under the waiver by sponsor and site. The proper use of the waiver will also be reviewed during sponsor compliance reviews.

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

FNS): By December 31st of each year, SCDE will provide a report to FNS that will include: a list of sponsors and sponsored sites that participated in the waiver, the month for which the waiver was utilized, the number of meals and meal types served in a non-congregate setting and the date the meals were 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]:

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

14. Signature and title of requesting officials:



Title: Director, Office of Health and Nutrition

Requesting official's email address for transmission of response: ddavis@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:**
 - Recommend Approval
 - Recommend Denial