

**CHILD NUTRITION PROGRAM NH  
STATE WAIVER REQUEST: Postponing  
Deadlines for the Community Eligibility Provision  
(CEP) Mid-Year CEP Elections for SY 2023-2024**

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 (CNP), 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:**

New Hampshire Department of Education (NHED)  
Office of Nutrition Programs and Services  
Amanda Marshall  
25 Hall Street  
Concord, NH 03301  
603-271-3860  
Amanda.A.Marshall@doe.nh.gov

**2. Region:**

Northeast

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

Any New Hampshire Department of Education, Office of Nutrition Programs and Services approved SAU or Site would be provided the waiver. In addition, the waiver would apply to some requirements on the State agency.

**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]:**

School food authorities (SFAs) and State agency staff are working around the clock to provide meals during these unprecedented times and to plan for a successful transition back to operating the traditional National School Lunch Program (NSLP) and School Breakfast Program (SBP). If the deadlines are not extended, SAUs, RAs and the New Hampshire State agencies involved with Direct Certification will be redirecting critical resources away from providing meals to children to focus on meeting the CEP deadlines instead.

Challenges the State Agency is Seeking to Solve:

The NH Department of Education is finding that schools and sites will be struggling in many ways to provide meals to those in need.

Goal of the Waiver to Improve Services Under the Program:

The goal of this waiver request is to give more schools the opportunity to qualify for CEP if given an extension until April 1, 2023 to provide the data used to calculate their ISP. NHED is also requesting an extension for the LEA/SFAs to elect CEP for SY 2023-2024, until Feb. 29, 2024. The waiver will ease administrative burdens for SAUs, sites and State agency staff, while increasing data and program integrity by extending CEP deadlines.

Expected Outcomes if the Waiver is Granted:

If this waiver is granted, the availability of additional schools and sites to qualify for CEP would enable more students to be able to have the opportunity for free meals that they might not otherwise have the accessibility to.

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

The NHDOE ONPS requests a waiver of:

- ISP Data as of April 1 under Sections 11(a)(1)(F)(iii)(I)(bb), (a)(1)(F)(iv)(I)(bb), (a)(1)(F)(v)(I), and (a)(1)(F)(v)(II)(bb) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1759a, and FNS regulations at 7 CFR 245.9(f)(3)(i), (f)(4)(i), (f)(4)(v)(A), (f)(4)(viii), and (f)(4)(ix).
- June 30 election date under Section 11(a)(1)(F)(x)(I) of the NSLA, 42

U.S.C. 1759a and FNS regulations at 7 CFR 245.9(f)(4)(i).

<b>CEP Requirement</b>	<b>Annual Deadline</b>	<b>Waiver Deadline</b>
Data Used to Calculate ISP	April 1	April 1, 2023
Elect Mid-Year CEP for SY 2023-2024	June 30, 2023 (NH Approved waiver Sept. 30, 2023)	March 30, 2024

The intent of this request is to allow schools to calculate their ISP using data drawn from any time during the prior school year (July 1, 2022, through June 30, 2023).

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

If approved, the NH Department of Education will notify SAUs of the extended CEP deadlines and provide technical assistance as needed. There are no impacts on technology, State systems, or monitoring.

**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]:**

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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:**

At this time, the NH Department of Education does not anticipate challenges from the establishment of this state-wide waiver extension.

**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]:**

Establishing this statewide waiver will not increase the overall cost of the Program to the Federal Government. The waiver will allow State and Local operators the time they need to ensure they are completing all CEP activities in line with Federal regulations. There are no additional staff costs to implement this waiver.

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

Anticipated waiver implementation date is: September 30, 2023- February, 29, 2024

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

State agency staff who approve written requests to implement the waiver from the individual School Administrative Unit (SAU) will monitor implementation of this waiver.

Procedure:

1. Instruct SAUs regarding the implementation of this waiver.
2. Waivers will be reviewed by State agency staff.
3. When approved, the SAU will implement. All required activities regarding CEP will continue to take place, but on a delay. There will be no changes to the required monitoring and review procedures.
4. The State agency staff that approve the waiver request will monitor the implementation of this waiver.

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

The NH Department of Education will report to FNS the number of Sponsors covered by this waiver no later than one year from implementation.

**13. 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]:**

This is the link to the public notice: <https://www.education.nh.gov/who-we-are/division-of-learner-support/bureau-of-student-wellness/office-of-nutritional-services-and-programs>

The language in the notice is pasted below:

The NH Department of Education is seeking a waiver from the United States Department of Agriculture, Food and Nutrition Services. The purpose of this waiver is to support postponing deadlines for the Community Eligibility Provision (CEP) for SY 2023-2024.

**14. Signature and title of requesting official:**

*Amanda Marshall*

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**Title: Administrator II**

**Requesting official's email address for transmission of response:**  
[amanda.a.marshall@doe.nh.gov](mailto:amanda.a.marshall@doe.nh.gov)

**Phone: 603-271-3860**

**NH Dept. of Education  
25 Hall St.  
Concord, NH 03301**

**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:**