

**CHILD NUTRITION PROGRAM NH
STATE WAIVER REQUEST: CN Prospective
Non-Congregate Waivers for Unanticipated School
Closures in NSLP/SBP**

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:

The New Hampshire Education Department is requesting a state-wide waiver for all Sponsors operating the Summer Food Service Program (SFSP) as well as the National School Lunch and School Breakfast Programs. The New Hampshire Education Department (NHED) as well as all sponsors of the SFSP, NLSP, and SBP are in good standing with the regional and national office.

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]:

The State agency is seeking to provide uninterrupted meal service to children 21 years and under during unanticipated school closures, with or without distance learning, when meal service options are limited due to natural disasters, unscheduled major building repairs, court orders relating to school safety, or other issues as approved by the State Agency for similar unanticipated circumstances. In order to most effectively and safely provide meals during periods of unanticipated closure, Sponsors need the flexibility to be able to provide meals in a non-congregate setting, which allows for parents or guardians to pick up meals on behalf of their children for individual consumption at a later time.

While many of our SFAs can and do offer virtual learning to students during times of unanticipated school closure, there are some SFAs that are unable do so but still wish to provide access to the meals that their students would have otherwise received at school if not for the closure. In these instances, SFAs participating in the SSO or Sponsors of the SFSP can step in to serve meals in the community but require the flexibility to do so in a non-congregate setting, allowing for parent/guardian pick-up, with flexible meal service times, and at either school or non- school based sites, depending on the nature of the closure. This waiver seeks to provide that flexibility to ensure that students continue to have uninterrupted access to the meals that they would have received during a normal school day if not for an unanticipated school closure.

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

SFSP and SSO Unanticipated School Closures (Schools buildings are closed **with no virtual learning**).

The waivers in this section apply to SFSP and SSO during unanticipated school closures, when school buildings are closed and virtual classes are not offered. These waivers would be effective October 1, 2023, through April 30, 2024.

- 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 (School buildings are closed **with virtual learning**). The waivers in this section are intended to provide needed flexibility to support SFAs in continuing to offer nutritious meals when school buildings are closed, and virtual classes are being offered. These waivers would be effective through June 30, 2024.

- 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: The waivers in this section apply to the at-risk afterschool component of CACFP only. These waivers are intended to provide needed flexibility to support at-risk afterschool centers in continuing to offer nutritious meals during unanticipated school closures. These waivers are effective through June 30, 2024.

- 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:

If approved, this request will provide program flexibilities that have been successfully implemented over the course of the 2 years through the use of Nationwide COVID-19 response waivers. If approved, NHED will continue to provide technical assistance to Sponsors on the process and procedures for distributing and recording accurate meal counts for meals served during circumstances of unanticipated school closure. There are no impacts on technology, State systems, or monitoring. NHED’s CNP reimbursement system would be used to monitor sponsors who utilize 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]:

There are no regulatory barriers at the state level.

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

NHED does not anticipate any additional challenges to the State or Sponsors with the

implementation of the waiver.

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 Waiver request will not increase the overall cost of the Program to the Federal Government.

10. Anticipated waiver implementation date and time period:

SFSP and SSO Unanticipated School Closures (Schools buildings are closed **with no virtual learning**). The waivers in this section apply to SFSP and SSO during unanticipated school closures, when school buildings are closed and virtual classes are not offered. These waivers would be effective through April 30, 2024.

National School Lunch Program and School Breakfast Program (School buildings are closed **with virtual learning**). The waivers in this section are intended to provide needed flexibility to support school food authorities (SFAs) in continuing to offer nutritious meals when school buildings are closed, and virtual classes are being offered. These waivers would be effective through June 30, 2024.

11. Proposed monitoring and review procedures:

NHED will continue to monitor Sponsor compliance per regulatory requirements.

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

The NHED will continue to report as required by federal regulations. In addition, no later than by September 30, 2024, the NHED will report to FNS the number of sponsors that used this waiver including the number of unanticipated operating days and meals claimed.

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]:

[Office of Nutrition Programs and Services | Department of Education \(nh.gov\)](#)

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 all Sponsors operating the Summer Food Service Program (SFPS) as well as the National School Lunch and School Breakfast Programs in non-congregate feeding due to unexpected closure for the 2023-2024 School Year.

14. Signature and title of requesting official:

Amanda Marshall

Title: Administrator II

Requesting official's email address for transmission of response:

amanda.a.marshall@doe.nh.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: