

CHILD NUTRITION PROGRAM STATE WAIVER REQUEST TEMPLATE

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 (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*, May 24, 2018.

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

North Carolina Department of Health and Human Services
Division of Child and Family Well-Being
1914 Mail Service Center
Raleigh, NC 27699

Mary Anne Burghardt, Assistant Director
919-707-5783
Maryanne.Burghardt@dhhs.nc.gov

Cassandra Ward, Program Manager I
919-218-0088
Cassandra.Williams@dhhs.nc.gov

2. Region: Southeast Regional Office (SERO)

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

The North Carolina Department of Health and Human Services (DHHS), Division of Child and Family Well-Being (DCFW), Community Nutrition Services Section (CNSS) is requesting these waivers on behalf of all participating CACFP institutions and sponsoring organizations that are currently in good standing with the State Agency (SA).

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]:

CNSS is requesting the following statewide waivers to facilitate recovery from Hurricane Helene until January 15, 2025. Institutions in the affected areas may experience issues with

the availability of food items to meet the meal pattern, loss of records, inability to maintain records, inability to file claims, and facility damage including anything from roofs to the entire facility. The challenges that the State agency and CACFP institutions may face if these waivers are not approved include a decrease in access to healthy meals due to unanticipated school and facility closures.

- A. Allow participating institutions the option to serve meals in a non-congregate setting during unanticipated school, child and adult day care closures.
- B. Allow the State agency to waive meal pattern requirements on an institution-by-institution basis for CACFP institutions when there is a disruption to the food supply. Institutions would be required to submit to the State agency documentation of the disruption to the food supply.
- C. Allow all Sponsoring Organizations the option to waive pre-approval visits for the next 60 days, postpone the required 4-week review for new facility for the next 60 days, and allow for more than 6-month to elapse between reviews of existing facility for the next 60 days. Waive the requirement for on-site reviews and allow for desk reviews of the facilities.
- D. Allow institutions up to 90 days from the last day of the claim month to file their claim for reimbursement without having to use a one-time exception or provide a Corrective Action Plan.
- E. Request on behalf of Sponsoring Organizations to waive the requirements to distribute reimbursement to sponsored facilities within 5 days of receipt of the monthly reimbursement. Sponsors have reported loss of electricity and loss of internet connectivity that may prevent a timely distribution of funds.
- F. Request exemption for record retention requirements when records have been destroyed on a case-by-case basis for CACFP institutions. Institutions and facilities would be required to submit documentation of the loss.
- G. Allow program operators the flexibility to adjust the times meals and snacks are provided in order to streamline operations.
- H. Allow sites that are approved for non-congregate meal service to distribute meals to a parent or guardian to take home to their eligible child(ren).

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

7 CFR 226	Requirement to be Waived
7 CFR 226.19(b)(6)(iii)	Meals served are consumed on the premises of the centers;
7 CFR 226.20(c)	Institutions and facilities must serve the meal components and quantities specified in the following meal patterns for children and adult participants in order to qualify for reimbursement.
7 CFR 226.16(d)(4)(iii)	<p>Sponsoring organizations must review each facility three times each year, except as described in paragraph (d)(4)(iv) of this section. In addition:</p> <p>(A) At least two of the three reviews must be unannounced;</p> <p>(B) At least one unannounced review must include observation of a meal service;</p>

	<p>(C) At least one review must be made during each new facility's first four weeks of Program operations; and</p> <p>(D) Not more than six months may elapse between reviews.</p> <p>(E) The timing of unannounced reviews must be varied so that they are unpredictable to the facility; and</p> <p>(F) All types of meal service must be subject to review and sponsoring organizations must vary the meal service reviewed.</p>
7 CFR 226.10(e)	Claims not postmarked and/or submitted within 60 days shall not be paid with Program funds unless FNS determines that an exception should be granted.
7 CFR 226.16(g)	Each sponsor shall disburse any reimbursement payments for food service due to each day care home within five working days of receipt from the State agency.
7 CFR 226.16(h)	Sponsoring organizations shall make payments of program funds to child care centers, adult day care centers, emergency shelters, at-risk afterschool care centers, or outside-school-hours care centers within five working days of receipt from the State agency....
7 CFR 226.15(e)	Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency. Failure to maintain such records shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records.
7 CFR 226.20(k)	State agencies may require any institution or facility to allow a specific amount of time to elapse between meal services or require that meal services not exceed a specified duration.
7 CFR 226.19(b)(6)(ii)	Meals served to children meet the meal pattern requirements specified in § 226.20;

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

The State agency will provide detailed information and instructions to all participating institution regarding the waiver process. CACFP Institutions and Sponsoring Organizations will be required to request approval for the use of the waiver(s). The alternative procedures would allow CACFP Institutions and Sponsoring Organizations in good standing to serve meals to children in a non-congregate setting during unanticipated closures due to the impact of Hurricane Helene. This includes an allowance for CACFP Institutions and Sponsoring Organizations to provide multiple meals and snacks at one time for up to a 5-day period.

The alternate procedures will also allow CACFP Institutions and Sponsoring Organizations to spend less time on paperwork and administrative requirements and allow them to focus more on serving nutritious meals to children in need.

6. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(I)(2)(A)(ii) of the NSLA]:

No barriers have been identified at the State agency level. There are currently no state-level regulatory barriers related to this specific issue.

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

The State agency does not anticipate any challenges to CACFP Institutions or Sponsoring Organizations.

8. 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(I)(1)(A)(iii) of the NSLA]:

The requested waiver does not increase the overall cost of the program to the Federal Government. The waiver is intended to replace meals that would have been served in a congregate setting at the CACFP institutions had the institution not experienced unanticipated burden from Hurricane Helene.

9. Anticipated waiver implementation date and time period:

The waiver would begin October 1, 2024, and is requested to remain in place through January 15, 2025.

10. Proposed monitoring and review procedures:

CACFP Institutions and Sponsoring Organizations will be required to request approval of each waiver. During the waiver approval process institutions will be requested to submit documentation to support each waiver request. During the review process, State agency staff will confirm whether the waiver(s) have been implemented correctly and in compliance with regulatory requirements through an extensive review of the CACFP Institutions and Sponsoring Organizations records.

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

The State agency will provide a report about the use of the waiver to USDA by December 31, 2024. This report will provide data and an analysis of the waiver impact to include:

1. A description of how the waiver impacted meal service operations, children and adult's access to nutritious meals and participation in the CACFP.
2. A description of how the waiver impacted the quantity of paperwork necessary to administer the program
3. The number of CACFP Institutions and Sponsoring Organizations that used the waiver.
4. The number of meals served at sites that used the waiver.
5. A summary of findings, if any, associated with the use of the waiver.

12. 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]:

<https://www.ncdhhs.gov/nccacfp>

13. Signature and title of requesting official:

Mary Anne Burghardt

Mary Anne Burghardt, MS, RD, LDN
Assistant Director
Division of Child and Family Well-Being
Address: 1914 Mail Service Center, Raleigh, NC 27699

Requesting official's email address for transmission of response: Maryanne.Burghardt@dhhs.nc.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:**



United States Department of Agriculture