

Kentucky Department of Education
Waiver Request to Allow Non-Congregate Feeding in the Summer Food Service Program
and Seamless Summer Option Until Start of School – Extension
Submission Date: August 11, 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.

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

Kentucky Department of Education
Division of School and Community Nutrition
300 Sower Boulevard,
Frankfort, KY 40601
502-564-5625

Lauren Moore, Director, Division of School and Community Nutrition
Lauren.Moore2@education.ky.gov

Cathy Gallagher, Program Manager, Summer Food Service Program
Cathy.Gallagher@education.ky.gov

2. Region: Southeast

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

Kentucky School Food Authorities (SFAs) and other sponsoring organizations in good standing will be able to participate in the waiver. SFAs and sponsoring organizations are in good standing if they have had no serious deficiencies declared in their most recent review cycle.

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]:

Districts in Kentucky continue to plan for the start of the 2020-2021 school year as the state is also experiencing increased numbers of Covid-19 cases. Because of this, some districts are delaying the start date of school, whether that be through in-person, non-traditional instruction, or blended models, until September 2020. The Governor made the recommendation on Monday, August 10, 2020 to delay the start of in-person instruction until September 28, 2020. Additional districts may decide to delay the start date for

school due to this recommendation. Without the ability to provide meals in a non-congregate setting through the Summer Food Service Program (SFSP), National School Lunch Program (NSLP) or Child and Adult Care Food Program (CACFP) At-Risk Afterschool Program, many children will suffer food insecurity. Kentucky is requesting that the waiver to allow non-congregate feeding in the Child Nutrition Programs be extended for the SFSP and the Seamless Summer Option (SSO) until September 30, 2020 to allow sponsors to continue serving meals through the Summer Meal Programs until the start of school. Waiving the congregate requirement is vital to ensure appropriate safety measures for the purpose of providing meals and meal supplements and will allow provision of meals through SFSP or the SSO during a time when other Child Nutrition programs are not operating.

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

Richard B. Russell National School Lunch Act at 42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D) and 7 CFR 225.6(e)(15) requiring that Child Nutrition Programs must be served in a congregate setting and must be consumed by participants on site.

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

The impact on program operations for the State Agency will be minimal since most Kentucky LEAs have participated in SFSP or SSO since mid-March of this year. There will be no anticipated impact on technology for the State Agency or sponsors. The State Agency will continue to provide training and technical assistance to SFSP or SSO sponsors and will comply with any additional monitoring that may be required by USDA.

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:

The Kentucky Department of Education does not anticipate any challenges with implementation of the waiver or waivers as SFA's and SFSP sponsoring organizations have successfully implemented the SFSP or SSO to date throughout the pandemic.

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 would allow SFSP or SSO meals to be served during days when NSLP would have been served, had school opening not been delayed. An increase in the overall cost of the program to the federal government is not anticipated.

10. Anticipated waiver implementation date and time period:

The Kentucky Department of Education respectfully requests expedited approval of this

waiver request. This waiver will be implemented upon date of USDA approval through September 30, 2020.

11. Proposed monitoring and review procedures:

The Kentucky Department of Education will monitor program operations and sites during the application and administrative review process. All aspects of operation will be reviewed according to regulation and prevailing guidance. Sponsors will submit corrective action plans as necessary to ensure program integrity.

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

Reports will include the number of sponsors, sites and overall impact of the waiver and will be reported within one year of the waiver expiration date or when USDA requires the report.

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]:

[https://education.ky.gov/federal/SCN/Pages/Summer-Food-Service-Program-\(SFSP\).aspx](https://education.ky.gov/federal/SCN/Pages/Summer-Food-Service-Program-(SFSP).aspx)

14. Signature and title of requesting official:



Title: Director, Division of School and Community Nutrition
Requesting official's email address for transmission of response:

lauren.moore2@education.ky.gov
cathy.Gallagher@education.ky.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:

- i. 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:**