

**CHILD NUTRITION PROGRAM  
KENTUCKY STATE WAIVER REQUEST  
Non-Congregate Meal Service for Outdoor Summer Meal Sites Experiencing  
Excessive Heat or Other Exceptional Weather Circumstances  
May 26, 2023**

**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](mailto:lauren.moore2@education.ky.gov)

Cathy Gallagher, Manager, Summer Food Service Program

[Cathy.gallagher@education.ky.gov](mailto:Cathy.gallagher@education.ky.gov)

**2. Region:** Southeast

**3. Eligible service providers participating in waiver and affirmation that they are in good standing:** Congregate meal sites of approved Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) sponsors 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(l)(2)(A)(iii) and 12(l)(2)(A)(iv) of the NSLA]:**

The Kentucky Department of Education seeks to support sponsor meal service during times when excessive heat or other exceptional weather circumstances might prevent a child from participating at an outdoor meal site.

The regulatory requirement that children be maintained on site while meals are consumed ((42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(e)(15)), would potentially endanger children in sites without shelter from excessive heat, electrical storms or tornados. Through this waiver, summer meal sponsors operating outdoor meal service at sites without a temperature-controlled alternative may be allowed to provide a non-congregate meal service on days when the area experiences excessive heat, or when severe thunderstorm or tornado watches/warnings occur. The National Weather Service declares a severe thunderstorm watch or tornado watch when there is a threat for either of these events. The watch duration is typically 4-8 hours.

The State agency expects and strongly encourages Program operators to maintain meal service for the dates they are approved in order to meet the nutritional needs of children at risk during the summer months. Providing this flexibility enables children in areas of high need to avoid food insecurity on adverse weather days.

- 5. Specific Program requirements to be waived (including statutory and regulatory citations). [Section 12(l)(2)(A)(i) of the NSLA]:**  
42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(e)(15)
- 6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:**  
Sponsors would be required to indicate the plan to use this waiver using the online application system by answering a question in the site applications. Only sites without adequate climate-controlled shelter from weather may request and use the waiver. Sponsors that use the waiver will be required to document the sites that use the waiver and the number of meals, by meal type affected. This will be a monthly report during the time SFSP and SSO are operated. Sponsors must maintain a copy of the weather watch, advisory or warning from the National Weather Service on file for days when the waiver is utilized.
- 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 regarding serving non-congregate SFSP/SSO meals on days of threatening weather or excessive heat.
- 8. Anticipated challenges State or eligible service providers may face with the waiver implementation:** There are no anticipated challenges that the State agency or service providers may face with this waiver implementation.
- 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 will not increase administrative and operating costs for sponsors and will not increase the overall cost of the program to the Federal Government.
- 10. Anticipated waiver implementation date and time period:**  
Implementation Date: June 12, 2023 (or earlier if approved)  
Time period June 12, 2023-September 30, 2023.
- 11. Proposed monitoring and review procedures:** In the online application system, there is a question asking if the sponsor requests participation in this flexibility. Sponsors are trained to request flexibility before it is needed, and only at sites without a temperature-controlled sheltered space. Sponsors must maintain a record of a heat advisory, heat warning, severe thunderstorm or tornado watch/warning for the days when this flexibility is used.
- 12. Proposed reporting requirements (include type of data and due date(s) to FNS):** A description of how the waiver impacted meal service operations, children's access to nutritious meals and participation in the SFSP will be reported, along with the number of

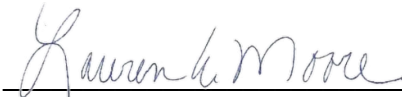
sites, the number of meals affected and sponsors utilizing this waiver will be reported annually. Any findings associated with the waiver will be reported as well. The report will be provided to the FNS Southeast Regional Office by September 30 of each year the waiver is in effect.

**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]:**

[Summer Food Service Program \(SFSP\) - Kentucky Department of Education](#)

[USDA Required Reports - Kentucky Department of Education](#)

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



Title: Director

Requesting official's email address for transmission of response:

[lauren.moore2@education.ky.gov](mailto:lauren.moore2@education.ky.gov)

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**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:**