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1244 Speer Blvd Suite 903  
Denver, CO 80204-3581

December 31, 2019

1. State agency submitting waiver request and responsible State agency staff contact information:  
North Dakota Department of Public Instructions

2. Region: Mountain Plains

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

**State-wide waiver request for all participating SFSP sponsor organizations. All SFSP sponsors are 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(1)(2)(A)(iii) and 12(1)(2)(A)(iv) of the NSLA]:

The State agency is seeking to request a state-wide waiver for the SFSP flexibilities that were rescinded by FNS on October 11, 2018 as part of SFSP 01-2019. The State agency is requesting a waiver to extend area eligibility to closed enrolled sites.

These FNS waivers have benefitted both State agencies and SFSP sponsors by helping them efficiently operate the SFSP in a more cost-effective manner. It has also allowed SFSP sponsors, who may not have otherwise operated, to operate their program without the burden of collecting and approving applications. Rescinding these flexibilities will place undue burden on both the State agency and the SFSP sponsoring organizations and sites.

5. Specific Program requirements to be waived (include regulatory citations). [Section 12(1)(2)(A)(i) of the NSLA]:

**Use of Area Eligibility with Closed, Enrolled Sites:**

We are requesting a waiver to extend the use of area eligibility to closed enrolled sites operating in needy areas where 50% or more of the children residing in the area are eligible for free and reduced price meals under the National School Lunch Program and School Breakfast Program, thereby waiving the requirement that individual eligibility determinations be made by submitting applications.

Section 13(a)(1)(A)(i)(III) of the NSLA an area— (aa) for which the program food service site documents the eligibility of enrolled children through the collection of income eligibility statements from the families of enrolled children or other means; and (bb) at least 50 percent of the children enrolled at the program food service site meet the income standards for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

42 USC 1761(a)(1)(A)(i)(III) an area— (aa) for which the program food service site documents the eligibility of enrolled children through the collection of income eligibility statements from the families of enrolled children or other means; and (bb) at least 50 percent of the children enrolled at the program food service site meet the income standards for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

7 CFR 225.15(f) Application for free Program meals—(1) Purpose of application form. The application is used to determine the eligibility of children attending camps and the eligibility of sites that are not open sites as defined in paragraph (a) of the definition of “areas in which poor economic conditions exist”, in §225.2. In these situations, parents or guardians of children enrolled in camps or these other sites must be given application forms to provide information described in paragraph (f)(2) or (f)(3) of this section, as applicable. Applications are not necessary if other information sources are available and can be used to determine eligibility of individual children in camps or sites.

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

Closed Enrolled Sites:

Any site located in an area in which at least 50% of the children are from households eligible for free/reduced price meals will be eligible for SFSP reimbursement for all meals served to eligible children, regardless of whether the site serves an identified group of children or is open to the community.

7. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(1)(2)(A)(ii) of the NSLA]:

Previously, the State agency has not had to address any regulatory barriers as these flexibilities were in place.

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

The State agency does not anticipate that these waivers will present any challenges to the agency or SFSP sponsor organizations as these flexibilities have already been implemented and in place.

The challenges that the State Agency and SFSP sponsor organizations may face if the waiver is NOT approved include:

- Increased costs to State agency to update software systems to bring into compliance with regulation changes, including application, claims, and compliance modules
- Increased burden to State agency to update training materials, re-train SFSP sponsors, and monitor compliance regarding rescinded flexibilities

- Increased administrative labor costs for SFSP sponsor for staff in collecting and/or making income eligibility determinations for children located in areas already deemed needy based on area eligibility
- Loss of program sponsors and sites resulting in less meals served to children
- Loss of closed-enrolled sites previously approved based on area-eligibility due to the increased burden at the site to demonstrate eligibility.
- Increased administrative costs for sponsors related to collecting and processing income applications for closed enrolled sites located in areas already determined eligible based on school and census data.
- Increased risk for administrative error determining eligibility through income applications.
- Loss of closed-enrolled sites due to increased administrative burden to process individual household income applications as well as a decrease in families completing applications.

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]:

The State agency does not anticipate that these waivers will increase the overall cost of the Program to the Federal Government. These waivers will however continue to assist the SFSP sponsors and the State agency stream line and control costs to their programs.

10. Anticipated waiver implementation date and time period:

To be effective with the start of the 2020 SFSP and approved until April 30, 2022.

11. Proposed monitoring and review procedures:

The State agency will do individual sponsor technical assistance during preapproval visits and annual application renewal; then continue to follow their standard SFSP review procedures. Sponsors found to have noncompliance issues as related to these waivers will work with the State agency on an individualized corrective agency plan and will have follow-up reviews scheduled as needed.

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

The State agency will report to FNS any compliance issues noted with these flexibilities during application approvals and reviews by October 1<sup>st</sup> each year.

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]: The public notice is located at:

<https://www.nd.gov/dpi/districtschools/child-nutrition-and-food-distribution/summer-food-service-program-sfsp>

14. Signature and title of requesting official:

Linda Schloer  
Name:

Director, Child Nutrition and Food Distribution Programs  
Title:

Requesting official's email address for transmission of response: [lkschloer@nd.gov](mailto:lkschloer@nd.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(I)(1)(A)(ii) of the NSLA

Regional Office Analysis and Recommendations: