



Food and
Nutrition
Service

April 1, 2022

Braddock
Metro
Center

Linda Schloer
Director, Child Nutrition Programs
North Dakota Department of Public Instruction
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Dear Linda Schloer:

This letter is in response to the North Dakota Department of Public Instruction's (ND DPI) March 10, 2022, request to waive the requirement for closed enrolled sites to use income eligibility applications to determine site eligibility in the Summer Food Service Program (SFSP). ND DPI requested a statewide waiver of the SFSP requirements at 42 U.S.C. 1761(a)(1)(A)(i)(III) and Program regulations at 7 CFR 225.15(f), which requires eligibility determinations of closed enrolled sites to be submitted through an application form. As discussed below, pursuant to the waiver authority granted at Section 12(l) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1760(l)), FNS approves ND DPI's waiver request effective May 1, 2022, through April 30, 2023. FNS is also extending this flexibility to the National School Lunch Program (NSLP) Seamless Summer Option (SSO).

ND DPI requested this statewide waiver that will expire on April 30, 2023, to provide a waiver of the requirement for closed enrolled sites to use income eligibility applications to determine site eligibility. ND DPI reports that the waiver would streamline processes, control costs, and focus resources on other areas of operation. According to ND DPI, denial would increase administrative burden and increase labor costs.

To grant a waiver under Section 12(l) of NSLA (42 U.S.C. 1760(l)), the waiver must facilitate the purpose of the Program, ND DPI must provide notice and information to the public regarding the proposed waiver, and the waiver must not increase the overall cost of the Program to the Federal Government. FNS finds the ND DPI's waiver request does satisfy these statutory requirements.

Accordingly, FNS approves ND DPI's request to waive the collection of income eligibility applications and allow closed enrolled sites to use data sources as outlined in policy memorandum [SFSP 03-2017, Area Eligibility in Child Nutrition Programs](#), to verify that the site is located in an eligible area. This waiver is effective May 1, 2022, through April 30, 2023. FNS also extends these flexibilities to SSO operations for the duration of this waiver. Please note that while this waiver extends through part of the 2022-2023 school year, during the school year, SFSP operations are authorized only during unanticipated school closures. This waiver is applicable to requirements at 42 U.S.C. 1761(a)(1)(A)(i)(III) and Program regulations at 7 CFR 225.15(f), which require closed enrolled sites to collect income eligibility applications to determine that 50 percent of the children are eligible for free and reduced price meals. It does not apply to sites that meet the regulatory definition of a camp (7 CFR 225.2) and receive

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reimbursement for three meals a day. Under this waiver, all closed enrolled sites using area eligibility will have to establish eligibility for operation in 2022; this eligibility determination will be effective for the duration of this waiver.

The waiver authority at Section 12(1) of the NSLA requires FNS to review the performance of any State or eligible service provider that was granted a waiver. Therefore, by September 30, 2023, ND DPI must provide to the FNS Mountain Plains Office a written report quantifying the impact of the waiver for the respective Program year, as described below.

The report must include the following:

- A description of how the waiver impacted meal service operations at participating sites;
- A description of whether the waiver resulted in improved services to children;
- A description of how the waiver reduced the quantity of paperwork necessary to administer the Program; and
- The number of program operators that used the waiver.

FNS appreciates ND DPI's commitment to work with sponsors to find efficiencies that balance the needs of local communities with cost-effective program management and integrity. If you have questions, please contact the Mountain Plains Regional Office.

Sincerely,

Tina Namian
Acting Director
Policy and Program Development Division

Electronic Copy: Sabina Velasco, MPRO