



Food and  
Nutrition  
Service

March 27, 2022

Braddock  
Metro  
Center

Linda Schloer  
Director, Child Nutrition Programs  
North Dakota Department of Public Instruction  
600 East Boulevard Avenue Dept. 201  
Bismarck, ND 58505-0440

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Dear Ms. Schloer:

This letter is in response to the North Dakota Department of Public Instruction's (ND DPI) March 10, 2022, request to waive meal service time restrictions for sponsors in the Summer Food Service Program (SFSP). ND DPI requested a statewide waiver of SFSP requirements under 7 CFR 225.16(c)(1) and (c)(2), which require minimum elapsed times between meal services and maximum durations of individual meal services. 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 Seamless Summer Option (SSO).

ND DPI requested this statewide waiver that will expire on April 30, 2023, to provide a waiver of meal service time restrictions. This waiver would allow sponsors to schedule meal service times that align with community activity programs and resources. ND DPI states that denial of this waiver could have a negative impact on the ability to meet the needs of children and at-risk youth.

To grant a waiver under Section 12(l) of the NSLA (42 U.S.C. 1760(l)), the waiver must facilitate the purpose of the Program, the State 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 that ND DPI's waiver request does satisfy these statutory requirements.

Accordingly, FNS approves ND DPI's request to waive meal service time restrictions for SFSP sponsors. This waiver is effective May 1, 2022, through April 30, 2023. FNS also extends these meal service time 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 regulations at:

- 7 CFR 225.16(c)(1), which places Federal limits on the amount of time that must elapse between the beginning of one meal and the beginning of the next, and

- 7 CFR 225.16(c)(2), which places Federal limits on the duration of a meal service.

Sponsors are still required to comply with application requirements at 7 CFR 225.6(c)(2)(i)(B) and (c)(3)(i)(A) to establish meal service times for each site. Additionally, ND DPI must ensure compliance with Program monitoring and review procedures at 7 CFR 225.7(d)(2) and (d)(3).

The waiver authority at Section 12(l) 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 Regional 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