

Child Nutrition Program State Waiver Request

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

North Dakota Department of Public Instruction

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 School Food Authorities (SFA) operating the Summer Food Service Program under the USDA nationwide waivers during SY 20-21. All SFAs 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:

- a. Nearly all North Dakota SFAs have chosen to operate the SFSP during SY 20-21 instead of NSLP. In addition, we anticipate that the release of USDA Policy Memo SP 04-2021, CACFP 03-2021, SFSP 03-2021, which confirms that Residential Child Care Institutions may also operate the SFSP under the Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Operations through School Year 2020-2021, will result in RCCIs changing their operations to SFSP in SY 20-21. In total, we anticipate at least 195 of our 203 SFAs will operate SFSP during SY 20-21.

Because of these changes, the State agency will not be able to complete all required portions of the NSLP Administrative Reviews. In 2019 the State agency received a waiver to implement a 5-year administrative review cycle. This waiver requests to move all scheduled ARs from SY 20-21 to SY 21-22, thus creating a 6-year AR cycle.

- b. Most SFAs operated the SFSP from during Spring 2020 when schools closed statewide due to COVID 19 pandemic. Per SFSP regulations, State agency staff conducted reviews of all new SFSP Sponsors during FY 2020. A total of 150 reviews were conducted. Per 7 CFR 225.7(d)(2)(ii)(B)] the State agency would be required to annually review sponsors whose reimbursements count as half the aggregate from the previous year. Since so many of our current SFSP sponsors were new sponsors in FY 2020, the State agency would be required to review several of these sponsors again during FY 2021. The State agency feels that review efforts would be better used by focusing on additional new SFSP sponsors and sponsors reviewed during FY 2020 that were found to have significant operational issues.
- c. SFSP sponsors have experienced tremendous challenges this School Year and are doing their very best to comply with program requirements while serving their students. However, SFAs were not prepared to operate the SFSP at the beginning of the school year. When the USDA waiver extensions were announced on August 31, 2020 most North Dakota SFAs had already begun school operating NSLP/SBP. Program operators were focused on a quick turnaround to serving meals through SFSP along with multiple school wide issues related to COVID safety and infections. Some sponsors did not complete the required review of the food service operations at each site at least once during the first four weeks of operation. Unlike traditional SFSP sites, SFA sites are

well established as approved schools and have organized structures and processes in place for meal service through NSLP/SBP and significant operational issues within the first four weeks of program operations are unlikely. Because of this, we are requesting an extension to the four-week site review requirements to allow sponsors to complete the site reviews before November 30, 2020.

5. Specific Program requirement to be waived (including statutory and regulatory citations).

- a. 7 CFR 210.18(c): Timing of reviews. State agencies must conduct administrative reviews of all school food authorities participating in the National School Lunch Program (including the Afterschool Snacks and Seamless Summer Option) and School Breakfast Program at least once during a 3-year review cycle, provided that each school food authority is reviewed at least once every 4 years.
- b. 7 CFR 225.7(d)(2)(ii)(B): Annually review sponsors whose reimbursements count as half the aggregate from the previous year.
- c. 7 CFR 225.15(d)(3): Review food service operations at each site at least once during the first four weeks of operation.

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

- a. In lieu of Administrative Reviews, State agency staff plan to hold monthly virtual training sessions for school foodservice personnel, hold in-person or virtual trainings specific to new staff members, send out a monthly newsletter to all CN program operators and provide resources on the State agency web site. These trainings will be recorded and emailed out to foodservice personnel who are unable to participate in the trainings.
- b. During SY 20-21 State agency staff plan to review all new SFSP sponsors any sponsors operating in SY 19-20 that had significant operational issues and any current SFSP sponsors with complaints or claim irregularities that are reported or observed by the State agency that would warrant a compliance review.
- c. SFSP sponsors will complete site reviews by November 30, 2020. The State agency will review this requirement as part of the compliance monitoring process.

7. Description of any steps the State has taken to address regulatory barriers at the State level:

The State agency has not identified any regulatory barriers at the State level.

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

One challenge that has been identified is the potential increase in issues identified during Administrative Reviews when the timing between reviews is extended. The State agency plans to include training and technical assistance on NSLP/SBP program requirements through virtual trainings, newsletters, website posts, etc. throughout SY 20-21 to remind program operators that these requirements will still be there after they are done serving meals through the SFSP.

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.

The State agency does not anticipate that this waiver will increase the overall cost of the Program to the Federal Government.

10. Anticipated waiver implementation date and time period:

To be effective upon approval by USDA and until June 30, 2021.

11. Proposed monitoring and review procedures:

The SA Director, Assistant Director, and SFSP Manager will be responsible for ensuring the coordination and completion of the program trainings and technical assistance, completion of planned SFSP reviews and SFSP Sponsor site reviews. The SA Director and Assistant Director will be responsible for ensuring that the 6-year AR cycle schedule will be completed as planned.

12. Proposed reporting requirements (include type of data and due dates to FNS)

The State agency will report to FNS any compliance issues noted with this waiver during application approvals and reviews as requested and collected by USDA.

13. Link to or a copy of the public notice informing the public about the proposed waiver:

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

14. Signature and title of requesting official:

Linda Schloer

Title: Director, Child Nutrition and Food Distribution Programs

Requesting official's email address for transmission of response: 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 the 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:**