

**Kirsten Baesler**  
State Superintendent



NORTH DAKOTA DEPARTMENT OF  
**PUBLIC INSTRUCTION**

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1244 Speer Blvd Suite 903  
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January 28, 2019

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 participating SFSP sponsor organizations. All SFSP sponsor organizations 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(l)(2)(A)(iii) and 12(l)(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The State agency is seeking to request a state-wide waiver for the SFSP flexibilities that were rescinded by FNS on October 11, 2018 as part of SFSP 01-2019. This request is for the flexibilities within SFSP 12-2011, SFSP 04-2013, and SFSP 06-2014, that provides States the discretion to waive first week site visit requirements for sites that have operated successfully in the previous year.

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 to align the SFSP meals more closely with the enrichment programs operating in their communities. These waivers have also allowed sites to be more welcoming and increase the number of children reached by the SFSP. 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(l)(2)(A)(i) of the NSLA]:**

First Week Site Visits

We are requesting the discretion to waive the first week site visit requirements for sites that have operated successfully in the previous year, for SFA sponsors in good standing, and for CACFP sponsors in good standing.

*7 CFR 225.15(d)(2) Sponsors shall visit each of their sites at least once during the first week of operation under the Program and shall promptly take such actions as are necessary to correct any deficiencies.*

ND School for the Deaf/RCDHH  
Devils Lake, ND  
(701) 665-4400

ND State Library  
Bismarck, ND  
(701) 328-2492

ND Vision Services/School for the Blind  
Grand Forks, ND  
(701) 795-2700

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

First Week Site Visits:

The State agency will be able to waive the first week site visit requirement for sites that operated successfully during the previous summer (or other most recent period of operation) and had no serious deficiency findings. Sponsors will still be required to review the site within the first four weeks of operation.

The State agency will be able to waive the first week site visit requirements for SFA sponsors in good standing. The SFAs must ensure that each sponsored site is monitored as otherwise required during the period of operation, monitoring requirements of the SFSP sites may be aligned with those of NSLP.

The State agency will be able to waive the first week site visit requirement for SFSP sponsors in good standing in the CACFP and NSLP, respectively. Sponsors will still be required to ensure that their sites are monitored as otherwise required by Program regulations during the period of operation. If a site and sponsor also participate in the at-risk afterschool care component of the CACFP, the sponsor may follow the CACFP review schedule year-round.

**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]:**

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 State agency staff, and monitor compliance regarding rescinded flexibilities
- Increased administrative labor costs for SFSP sponsor for monitor staff in conducting the first week site visits, especially for the larger sponsoring organizations.
- Increased sponsor administrative labor cost to conduct first week site visits for all sites, especially for large sponsor organizations.
- Increased sponsor administrative labor costs will result in less available funds for the purchase of high quality food.
- Loss of sites due to increased administrative burden to conduct site visits at each site during the first week of operation.
- These combined impacts will result in a significant decrease in program sponsors and sites due to increased administrative burden. This will result in decreased access to the program, a decrease in meals served to children and ultimately an increase in childhood hunger in North Dakota

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(I)(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 waiver 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 2019 SFSP and approved for a period of 5 years.

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(I)(1)(A)(ii) of the NSLA]:** The public notice is located at:

<http://itdwww7.nd.gov/dpi/SchoolStaff/ChildNutritionFoodDistribution/SummerFoodServiceProgram/>

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



Director, Child Nutrition and Food Distribution Programs

Name:

Title:

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

- **Regional Office Analysis and Recommendations:**