

Kirsten Baesler  
State Superintendent



NORTH DAKOTA DEPARTMENT OF  
**PUBLIC INSTRUCTION**

600 E. Boulevard Ave., Dept. 201  
Bismarck, ND 58505-0440  
Phone (701) 328-2260  
Fax (701) 328-2461  
www.nd.gov/dpi

Melissa Tramontana  
Mountain Plains Regional Office  
1244 Speer Blvd Suite 903  
Denver, CO 80204-3581

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(I)(2)(A)(iii) and 12(I)(2)(A)(iv) of the NSLA]:**

The State agency is seeking to request a state-wide waiver for the SFSP flexibility within SFSP 06-2017, to waive the time restrictions for meal service.

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(I)(2)(A)(i) of the NSLA]:**

Meal Time Restrictions:

We are requesting to waive the meal time restriction on the amount of time that must elapse between meal services, the time restrictions associated with supper, and the amount of time limited for each meal/snack service.

*7 CFR 225.16(c)(1) Three hours must elapse between the beginning of one meal service, including snacks, and the beginning of another, except that 4 hours must elapse between the service of a lunch and supper when no snack is served between lunch and supper. The service of supper shall begin no later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances. These waivers shall be granted only when the State agency and the*

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

*sponsor ensure that special arrangements shall be made to monitor these sites. In no case may the service of supper extend beyond 8 p.m. The time restrictions in this paragraph shall not apply to residential camps.*

*7 CFR 225.16(c)(2) The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals.*

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

Meal Time Restrictions:

The State agency will place no time limits on the duration of a meal service and no requirements pertaining to the amount of time that must elapse between the beginning of one meal service and the beginning of the next. This will provide sponsors with greater flexibility to meet local needs. SFSP sponsors will be required to establish meal times for each site and provide this information to the State agency. Meals must be served within the State-approved meal service times in order to be claimed for reimbursement and for the cost associated with such meals to be covered by Program funds.

**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 monitor compliance regarding rescinded flexibilities
- Loss of reimbursement revenues for meals and snacks as meal time restrictions may force SFSP sponsors to not operate meals/snacks that do not align with program activities in place
- Increased operational labor costs for SFSP sponsors due to the amount of time that must be placed between meals/snacks

**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 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.

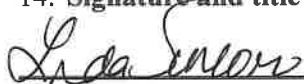
**12. Proposed reporting requirements (include type of data and due date(s) to FNS):**

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(l)(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

---

**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(l)(1)(A)(ii) of the NSLA

- **Regional Office Analysis and Recommendations:**