



**North Carolina Department of Public Instruction
Waiver Request to continue the Seamless Summer Option and the
Summer Food Service Program
During Unanticipated School Closure and Delayed/Staggered Reopening of
Schools Due to the Novel Coronavirus (COVID-19)
July 8, 2020
(amended August 3, 2020)**

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements. However, Section 12(l) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(l), provides authority for the US Department of Agriculture (USDA) to waive requirements for State agencies or eligible service providers under certain circumstances.

On March 10, North Carolina (NC) Governor, Roy Cooper, issued Executive Order 116 in which he declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus (COVID-19) as a public health emergency and to provide for the health, safety and well-being of residents of the State. On March 11, the World Health Organization declared COVID-19 as a global pandemic. On March 13, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all States and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Act. On March 14, Governor Cooper issued Executive Order 117 that prohibited mass gatherings and closed schools to students effective March 16 due to the Coronavirus (COVID-19). Executive Order 117 also directed the NC Department of Public Instruction (NCDPI) and the NC State Board of Education (NCSBE) to work together to implement measures to provide for the health, nutrition, safety, educational needs and well-being of children during the period of unanticipated school closure. Schools remain closed to students in NC.

The pervasive influence of the Coronavirus (COVID-19), its significant impact on school operations and the unprecedented rate of food insecurity in NC has compelled the NCDPI to notify the US Department of Agriculture (USDA) of its desire to exercise its existing approved waiver authority (waiver approved February 3, 2020) to allow for the continuation of the Summer Food Service Program (SFSP) and the Seamless Summer Option (under the National School Lunch Program) due to ongoing unanticipated school closures and significantly modified school reopening schedules. In conjunction with the waiver allowing for a continuation of the SFSP and the SSO, the NCDPI is requesting an extension of the non-congregate meal service, parent/guardian meal pick-up, area eligibility, and meal-time restrictions waivers as applied to the SFSP and SSO through June 2021.

Granting these waivers will provide School Food Authorities (SFAs) and other sponsoring organizations in NC the flexibility needed to continue to leverage innovative and collaborative meal solutions in support of social distancing, thereby protecting

students, staff, families and communities and preventing the spread of Coronavirus. Implementation of the waiver will enable the State agency and all participating SFAs to provide meals to all students who wish to receive them during the period of unanticipated school closure (whether full or partial closure) until COVID-19 is safely under control and school schedules have returned to normal, thus effectively extending the State's public health nutrition response.

The US Department of Agriculture (USDA) has extended outstanding support to State and local governments during the pandemic by providing optimum flexibilities to SFAs and other sponsoring organizations during this period of unanticipated school closure. The waivers have empowered to SFAs, sponsoring organizations and other partnering agencies to address the growing crisis of food insecurity during the pandemic and have positively impacted the lives of children in NC.

As students return to school NC, will require USDA's continued steadfast support. For the first time in the State's history, the Coronavirus crisis has created an environment where the Governor has been compelled to close schools to students in order to protect the health and safety of North Carolinians. The uncertainty of the new school year, and the increasing health metrics related to the spread of the Coronavirus, coupled with the alarming increase in food-insecurity and economic instability for many families as a result of unemployment, have created a new 2020 – 2021 school year to be one of uncertainty for the State's system of public education. The State agency has deemed the current period of school closure as a continuation of the current "unanticipated school closure" since Executive Order 117 remains in effect. It is important to note that schools will be closed for many students through no choice of theirs or their parents/guardians, thus the closure is also unanticipated by students, families and communities who are directly impacted by school closures. We respectfully request all SFAs and sponsoring organizations be permitted to continue to operate the SSO and SFSP under the provision of unanticipated widespread school closures along with the optimum waiver flexibilities already provided by USDA during this public health emergency. We believe the continuity of operations allowed by operating the SSO SFSP will promote our mutual goals of "doing right...feeding everyone." Our goal is to provide nutritious, appealing meals to students in an environment of maximum program integrity.

As indicated in USDA's Policy Memorandum SP 04, 2020, *Meal Service During Unanticipated School Closure*, (issued November 5, 2019), schools may face unanticipated school closures due to natural disasters, unscheduled major building repairs, court orders relating to school safety of other school safety issues, labor-management disputes, and when approved by the State agency, a similar cause. North Carolina's compulsory education laws require children between seven and sixteen to attend school, unless they are deemed mentally or physically unable to attend; for this reason, schools are open to students annually and many NC schools operate year-round. While it has been suggested the new school year marks a period of "planned closure," because schools are asked to develop contingency plans to address the various COVID-19 school closure scenarios, the State agency posits the school closure

was and continues to be an unanticipated school closure that was directed by the Governor's Executive Order (117) in direct response to the threat to public health and safety as a result of the morbidity and mortality caused by the spread of the Coronavirus.

Unanticipated full or partial closure prevents students from receiving the nutritious meals they would normally receive and to which they are entitled. The USDA's Food and Nutrition Service continues to encourage SFAs participating in the National School Lunch Program, School Breakfast Program and the Summer Food Service Program to request and utilize flexibilities available to them to help ensure children/students do not experience a lapse in food security when extreme conditions, such as the pandemic, force schools to close. As a result, the NCDPI has prepared this waiver request in response to the challenges faced by most of its SFAs.

These waivers will help schools, families and communities minimize potential exposure to the Coronavirus (COVID-19) thereby promoting the national and state objectives of ensuring the health, safety and well-being of our children and citizens as well as slowing the spread of the virus. These waivers will also enable SFAs and other sponsoring organizations to safely, effectively and efficiently provide nutritious meals to the state's most vulnerable food insecure students, while supporting the overall program sustainability, financial viability and optimal program integrity.

Details of the waiver request are submitted in the format required by the USDA and are described herein.

1. State Agency submitting waiver request and responsible State Agency staff contact information

North Carolina Department of Public Instruction (NCDPI)

Dr. Lynn Harvey, Director, School Nutrition and District Operations Division
Lynn.Harvey@dpi.nc.gov; 984-236-2901; and

Ms. Cynthia D. Ervin, Manager, Summer and Special Nutrition Programs
Cynthia.Ervin@dpi.nc.gov; 984-236-2632

2. Region: Southeast

3. Eligible service providers participating in waiver and affirmation that they are in good standing:

The NCDPI affirms that only SFAs and other sponsoring organizations in good standing will be able to participate in the waiver. SFAs and sponsoring organizations are in good standing if they have had no serious deficiencies declared in their most recent review cycle.

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]:

Challenge to be resolved by the Waivers:

Since May 2020, the number of North Carolinians reported hospitalized because of COVID-19 has steadily increased. Recently, North Carolina has regularly exceeded 1,000 confirmed cases of COVID-19 per day and on July 3, exceeded 2,000 confirmed cases. While cases of COVID-19 continue to increase and North Carolina's Governor has transitioned the State to a less restrictive "safer-at-home" phase of reopening the State, recent changes in the metrics have created concern among public health officials. These metrics indicate the State is moving in the "wrong direction" relative to controlling the spread of the Coronavirus. These upward metrics include the number of positive diagnoses, the number of hospitalizations, the number of deaths and other parameters. The direction of the metrics prompted the Governor to issue Executive Order 147 on June 26 to require cloth face-coverings to be worn statewide. These metrics have stalled the plan to reopen the State, including the reopening of schools to students. Nationwide and in North Carolina, the population appears to have further self-relaxed standards of social distancing and therefore, the fate of North Carolina's children is dire and immediate action must be taken to ensure they have nutritious meals from dependable sources throughout this crisis.

Another metric of concern that is germane to this waiver request is NC's level of food insecurity; the rate has risen from 11.7% in February 2020 to 24% in May 2020 (Food Research and Action Center). The exceptional circumstances of this public health emergency demand practical and creative solutions to meet the needs of North Carolina's children. The Food and Nutrition Service of the USDA (FNS) has provided ongoing support throughout the COVID-19 crisis and its approval of this waiver request is critical to best adapt to the conditions related to continued unanticipated full and partial school closures that lie ahead for NC's public schools. The NCDPI is requesting a waiver allowing for the continuation of the SSO and the SFSP during the coming year so whether children are attending school in small cohorts to allow for maximum social distancing, or they are required to remain at home to participate in remote learning opportunities (where available) the SSO and SFSP may be efficiently and effectively implemented to provide nourishing meals to them. Operating under the SSO and SFSP during this period of unanticipated school closure ensures consistency in operations in the provision of meals and simplicity in following a single program's requirements. This consistency of operations further ensures the integrity of the child nutrition programs. The NCDPI is also requesting a continuation of the non-congregate meal service, extension of area eligibility, meal service time waivers and parent/guardian meal pick-up as they apply to the SSO and SFSP.

At the time of preparation of this waiver request, NC’s school districts remain closed to students. Many of NC’s Local Education Agencies (LEA) are year-round schools that open in July annually. The Office of the Governor, in collaboration with the NCDPI, the NCSBE and the NC Department of Health and Human Services (DHHS) will determine when schools will re-open based on each LEA’s individual plan.

The NCDHHS, as the lead public health agency in the state, issued guidance for all LEAs by which they may consider the reopening of schools at such time as the Office of the Governor, the Secretary of Health and Human Services and State Public Health Officials, the NCDPI and the NCDHHS deems it safe and appropriate to do so. Individuals LEAs will not make the decision to reopen.

The guidance issued by the NCDHHS, entitled [StrongSchoolsNC Public Health Toolkit \(K-12\)](#) requires each LEA to develop three preliminary plans for gradual reopening of schools when and if such should occur.

The three plans include requirements that must be met and recommendations that are strongly suggested in the following areas:

Plan C	Plan B	Plan A
<p>Schools closed to students; no in-person instruction only remote learning opportunities for students (current implementation plan; and will be implemented at any time should COVID-19 metrics worsen significantly).</p>	<p>Moderate Social Distancing; restrictions include required social distancing and reduced student capacity COVID-19 metrics improve or move in a positive direction.</p>	<p>Minimal Social Distancing; least restrictive for school reopening (implemented if COVID-19 metrics stabilize or move in a positive direction).</p>

- Social distancing and minimizing exposure;
- Cloth face coverings;
- Protecting vulnerable populations;
- Coping and resilience;
- Cleaning and hygiene;
- Monitoring for symptoms;
- Handling suspected, presumptive or confirmed positive cases of COVID-19;
- Communicating and combatting misinformation
- Water and ventilation systems; and
- Transportation.

Each of the State’s LEAs, including those participating in the federally assisted school nutrition programs are required to prepare their own Plans C, B and A to define how their LEA/SFA will operate and implement all NCDHHS requirements when schools eventually and gradually begin to reopen. The plans also provide LEAs with the ability

to remain fluid for quick and efficient closure or reopening should metrics worsen or improv throughout the school year.

As plans are developed, schools must accommodate the educational needs of the children yet maintain safe and healthy environments for all. Each LEA's plans will be different based on the unique academic and operational needs of their respective districts and communities. Schools are struggling to best adapt to the health crisis yet continue to serve nutritious meals to our children/students during this time. NC's school leaders and elected education officials have proffered a variety of plans to meet the needs of their communities. From virtual classrooms where schools would not reopen, to staggered onsite abbreviated or rotating classroom time alternated with virtual instruction, even under the best of circumstances, these plans would leave our vulnerable children without a consistent source of nutritious meals. The participating SFAs in NC represent 2,644 individual schools and 1.6 million students. Due to stringent social distancing requirements, fewer than half of students will be allowed to return to school under Plan B if and when schools reopen to students. This reduced capacity will require SFAs provide meals to students attending school both onsite and virtually offsite. This diversity of plans, along with the requirement to provide meals based on each students' meal eligibility status (free, reduced-price, paid) without overt identification all while meeting the NCDHHS requirements will make it challenging for the SFAs to adequately implement the NSLP. The Nationwide waivers provided by USDA on June 25, 2020 for COVID-19 Response number 33-37 do not adequately address these barriers.

Furthermore, as schools will limit or restrict previously utilized volunteers during this time due to the contagiousness of COVID-19, other sponsoring organizations will be required to provide meals to non-school age children and the increasing number of school aged children who will no longer be on campus.

Even under the best of circumstances, these plans would leave our vulnerable children without a consistent source of nutritious meals. Furthermore, as schools will limit or restrict previously utilized volunteers during this time due to the contagiousness of COVID-19, other sponsoring organizations will be required to provide meals to non-school age children and the increasing number of school age children who will no longer be on campus.

This waiver requests the authority to provide all meals to students through the SSO and SFSP during this unanticipated and unprecedented closure of schools to some if not all students. The waiver is intended to address the following operational, logistical and program integrity issues as a result of implementing the National School Lunch Program during this period of organizational uncertainty and operational complexity including but not limited to the following conditions as reported by local school nutrition administrators:

- **Inability to provide meals to many food-insecure, vulnerable children** for whom schools will remain closed; schools will be closed to students at various

times and at various age/grade groups. Schools may return to 25% or 33% or 50% capacity to ensure social distancing. (Example: some schools will return all K-5 students to the campus while requiring grades 6 – 12 (middle and secondary students) to remain at home; some students will come to school for one week per month and school will be closed to them for three weeks);

- **Overt identification of students/households** by providing meals only to certain students/households who are unable to attend school when the school is closed to certain students based on age/grade group (through no choice of the student or parent/guardian);
- **Overt identification** as some students may be provided meals to take home when they leave for the day (as they may not be returning for quite some time); some students will receive meals to take home; others will not;
- **Challenges to meal accountability when having to provide multiple meals (for days/weeks)** when students are not allowed at school; parent pick-up will require information to substantiate the student's individual confidential meal eligibility status (free, reduced-price, paid);
- **Meal accountability given all meals served in non-traditional settings** (classrooms, hallways, take-home, grab-and-go, curb-side pick-up and delivery to students whose health conditions prohibit their return to school, etc.) since students will not be allowed to congregate or pick-up their meals in the school cafeteria as a result of the requirement for social distancing;
- **Meal accountability challenges for meals in the classroom** since teachers will be pressed to use every ounce of instructional time for pupil instruction; minimal time can be devoted by teachers and other instructional personnel to assist in the service of reimbursable meals to students by category (free, reduced-price and paid);
- **Meal accountability challenges** as a result of not being able to use self-reported Personal Identification Number (PIN) pads for recording student identifiers and high-touch devices are prohibited in many areas;
- **Meal accountability for meals served to students enrolled in the district but are unable to physically attend school as a result of the district's academic plan (C, B or A);**
- **Meal accountability for students enrolled in CEP schools** who will be scattered throughout the district to accommodate social distancing requirements; some will be temporarily placed in non-CEP schools and will subsequently lose their CEP status. Based on the scenario described above, students in K-5 will occupy all available school buildings in the district and as a result, students, enrolled in CEP schools, will be scattered and will attend non-CEP schools; these students will lose their CEP status;
- **Meal accountability as a result of inadequate staffing in the school nutrition program** in order to oversee meal accountability process for each student;
- **Challenges with cash management** as paid and reduced-price eligible students will be required to pay for meals at the Point of Service (POS), including in classrooms or on meal delivery vans or buses;

- **Increase in student meal debt** as a result of meals served in the classroom by teachers who will not be inclined to withhold a meal from a student because he/she does not have meal money or meals;
- **Inadequate staffing in the school nutrition program** as meals must be pre-packaged and directly served to students; there will be no student self-serve, limited choices and restricted, if any, use of the school cafeteria;
- **Student meal participation will plummet**, threatening the sustainability of most programs within the State;
- **Financial impact of school closures and limited pupil occupancy** is equivalent to providing meals for 5 days in order to produce 1 days' worth of revenues; school nutrition programs cannot sustain this level of financial loss;
- **Transitioning to the NSLP leaves no pre-approved option for schools to provide meals if Governor continues to require Plan C** (schools closed to students) or if metrics go in a direction requiring the Governor to require the return to Plan C once schools begin to gradually reopen (at limited occupancy due to social distancing);
- **Staggered meal schedules as a result of only a limited number of students returning to the campus while others remain at home during their unanticipated school closure** will add another layer of complexity to an already complex NSLP; the later of complexity will have serious implications for menu, staffing, production, participation, service, financial sustainability and overall program accountability and integrity;
- **Parents/guardians of students for whom school is closed** may be unable to come on to school sites to obtain meals for their children given the requirement for social distancing; many schools will be "off limits" to non-essential visitors during the school day to promote social distancing;
- **Elimination of other sponsoring organizations** assisting SFAs to bridge the gap of hunger for families of children without transportation and adequate access to meals during periods of school closure if NSLP/SBP will be required.
- **Other administrative, operational and logistical challenges** that may compromise program delivery, accountability and ultimately program integrity.

Goal of the Waiver to Improve Services under the Program:

Since the start of the national public health crisis related to COVID-19, the Food and Nutrition Service (FNS) of the US Department of Agriculture has used practical and creative approaches to ensure those in need have access to one or more nutrition assistance programs under the FNS umbrella. If the FNS grants this and other requested waivers, eligible community organizations will continue to operate the SFSP and SFAs will continue to operate the SSO with fidelity, accountability and integrity in a manner that best responds to the varying school nutrition delivery models. Through this approach, SFAs and other sponsoring organizations will be able to serve nutritious meals to more children when the need is greatest. Implementation of the SFSP will enable SFAs to partner with other "sites" that may provide meals to students, thus limiting the numbers of unnecessary visitors to the school campuses, thus supporting optimal social distancing and preventing the spread of the Coronavirus. Exercising

maximum flexibilities will enable the school nutrition programs to continue to serve as the “safety net” for food-insecure children/students who depend upon meals at school for their primary source of food and nutrition.

5. Specific Program requirements to be waived (include statutory and regulatory citations). [Section 12(I)(2)(A)(i) of the NSLA]:

In addition to the waiver to operate the SFSP during the unanticipated and unprecedented school closures as a result of the pandemic, the NCDPI is requesting continuation of the following waivers through June 30, 2021:

- Operation of SFSP During Unanticipated School Closures – 7 CFR 225.6(d)(1)(v)
- Non-congregate meal service waiver - 7 CFR 225.6(e)(15) and 7 CFR 226.19(b)(6)(iii);
- Parent/Guardian Meal Pick-up – 7 CFR 225.9(d)(7); and
- Meal Service Time Restrictions – 7 CFR 225.6(c)(2) and (3)
- Area Eligibility – 7 CFR 225.2, 225.6(c)(2)(i)(G), 225.6 (c)(3)(i)(B), 225.6(d)(1)(i); 225.14(c)(3), and 225.16(b)(4).

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

NCDPI anticipates only a positive impact on program operations, continuity of operations, technology infrastructure, State systems and monitoring as a result of this waiver to implement the SSO and SFSP during the unanticipated closure of schools to students. Regarding any required alternative procedures and the anticipated impact on program operations if the USDA grants waiver, NCDPI does not anticipate any required program operational changes, including those affecting technology, State systems and monitoring. The NCDPI has successfully implemented the SSO and SFSP since the unanticipated school closure on March 16. The NCDPI has provided extensive training for State and SFA staff and have conducted desk audits to ensure integrity in the meal counting and claiming process and other critical areas of operation. The continued implementation of the SSO and SFSP will help insure consistency and continuity of operations during the pandemic. With the reduced number of SFA staff returning to schools to support nutrition operations (due to their relative risk for complications if exposed to COVID-19) will limit the capacity of staff to implement the more complex operations associated with National School Lunch Program. The challenges related to program operations as addressed in the question above, including technology, State systems, monitoring and program integrity are related to implementation of the recently issued national waivers under the NSLP given the prescriptive nature of the program.

7. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(I)(2)(A)(ii) of the NSLA]:

The NCDPI does not anticipate any regulatory barriers at the state level; all stakeholders support of this waiver request because it helps ensure meals to the most vulnerable students in NC throughout the pandemic and into the disaster recovery phase. The Office of the Governor, the State Board of Education, the Department of Public Instruction and other key stakeholders including Superintendents, Principals, Teachers and School Nutrition Administrators support this waiver. Letters of support are available upon request.

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

The NCDPI does not anticipate any challenges with implementation of the waiver as SFAs have successfully and accountably implemented the SSO and SFSP throughout the period of school closure.

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]:

This request will not impact the overall cost of the program to the Federal Government. The amount of meals served in the School Nutrition Programs have been reduced substantially during the period of school closure. During the typical school year, the program provides over 1.2 million meals per day (including breakfast and lunch). During the period of school closure, SFAs and sponsoring organizations are providing on average, 500,000 meals per day. This reduction in meals served reflects an overall decline in meals claimed for reimbursement. While the meal reimbursement rates are higher in the Summer Food Service Program (SFSP) than reimbursement rates in the SSO National School Lunch Program (NSLP) and School Breakfast Program (SBP), these costs are offset by the reduction in the overall number of meals served. Even at the higher rate of reimbursement, the reduction in volume of meals served is going to reduce the amount of federal funds required to support meal service. Recognizing the school nutrition program lost twenty-five percent (75%) of its revenue base with the unanticipated close of schools and another loss associated with the decline in the number of meals served (from 1.2 million per day to 500,000 per day), the NC General Assembly appropriated \$75 million in Federal Coronavirus Aid, Relief and Emergency Support (CARES) Act. While these funds will not replace the revenue lost as a result of the unanticipated closure of schools, they are an indicator of the State's desire to support School Food Authorities in providing meals to food-insecure students as part of the public health crisis brought about by the Coronavirus (COVID-19) pandemic.

10. Anticipated waiver implementation date and time:

NCDPI respectfully requests expedited approval of this waiver through June 30, 2021. Please note, the current unanticipated school closure waiver granted to the NCDPI is approved through April of 2022. If granted, NCDPI will implement the waiver effective August 1, 2020.

11. Proposed monitoring and review procedures:

NCDPI will continue to closely monitor program operators and sites during the application and administrative review process. All aspects of operation will be reviewed according to regulations and guidance. NCDPI will require corrective action as necessary to ensure Program integrity.

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

By December 31st of each year, NCDPI will provide a report to the Southeast Regional Office of the Food and Nutrition Service (FNS) including all data requested by FNS. NCDPI will contact all sponsors potentially affected by the granting of this waiver to solicit the required data. This data will include the number of sponsors, sites and the overall impact of the waiver.

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]:

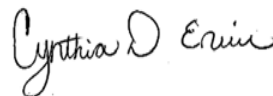
Website link: <https://childnutrition.ncpublicschools.gov>

Signature and title of requesting officials:

Respectfully submitted,



Director
School Nutrition Division



Manager
Summer and Special Nutrition Programs

Requesting official's email address for transmission of response:

Lynn.Harvey@dpi.nc.gov;

Cynthia.Ervin@dpi.nc.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(I)(1)(A)(ii) of the NSLA**

Regional Office Analysis and Recommendations: