

CHILD NUTRITION PROGRAM STATE WAIVER REQUEST TEMPLATE

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(I) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(I), provides authority for USDA to waive requirements for state agencies or eligible service providers under certain circumstances. When requesting the waiver of statutory or regulatory requirements for the Child Nutrition Programs (CNP), including the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the National School Lunch Program (NSLP), the Fresh Fruit and Vegetable Program (FFVP), the Special Milk Program (SMP), Summer Seamless Option (SSO) and the School Breakfast Program (SBP), state agencies and eligible service providers should use this template. State agencies and eligible service providers should consult with their FNS Regional Offices when developing waiver requests to ensure a well-reasoned, thorough request is submitted. State agencies and eligible service providers are encouraged to submit complete waiver requests at least 60 calendar days prior to the anticipated implementation date. Requests submitted less than 60 calendar days prior to the anticipated implementation should be accompanied by an explanation of extenuating circumstances. For more information on requests for waiving program requirements, refer to SP 15-2018, CACFP 12-2018, SFSP 05-2018, Child Nutrition Program Waiver Request Guidance and Protocol-Revised, May 24, 2018.

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

Illinois State Board of Education (ISBE)
Nutrition Department
100 N. First St.
Springfield, IL 62777

Mark Haller, Director
mhaller@isbe.net
(217) 782-2491

2. Region:

Midwest Region

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

Any Illinois approved School Food Authority (SFA) and/or sponsor approved to operate in the School Nutrition Programs (NSLP, NSBP, After School Snack Program, Special Milk Program or Summer Seamless Option), and the Summer Food Service Program.

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]:

On March 17, 2020, the governor of Illinois mandated all schools to close through April 7, 2020, in response to the COVID-19 outbreak. On March 21, 2020, the governor extended these closures to childcare centers and family daycare homes with a few exceptions to emergency workers. These closures have left children and students across Illinois who depend on the meals and snacks provided by their schools and care programs with limited alternative sources. As the calendar year progressed, Illinois, as well the rest of the country, has struggled to maintain the COVID-19 virus at an acceptable level to conduct normal food service operations.

Therefore, the U.S. Department of Agriculture (USDA) has extended numerous waivers to assist the states to provide meals in Child Nutrition Programs to secure access to food.

Under program statute and regulations, state agencies and local operators are required to conduct monitoring of the Child Nutrition Programs. Through nationwide waivers, the USDA Food and Nutrition Service (FNS) has provided flexibilities to allow for off-site reviews in 2021 in order to help minimize potential exposure to the novel coronavirus (COVID-19).

FNS recognized the current exceptional circumstances of this public health emergency and released nationwide waivers through June 2021. The ISBE Nutrition Department has providers operating different programs, at different times of the year, rather than their traditional operations. As a result, the ISBE Nutrition Department and its providers need to modify their oversight and review plans. In planning our oversight activities for the coming year, the ISBE Nutrition Department determined that a waiver of federal statutory and/or regulatory requirements is needed in order to provide effective and efficient oversight of program operations. In addition to oversight activities, technical assistance and training measures were also important tools in ensuring that program operators successfully operate programs consistent with federal regulations.

During Fiscal Year 2021, FNS provided the opportunity for state agencies to submit a waiver request of both state and local Child Nutrition Programs monitoring requirements with a justification through proposed alternative plan for conducting effective program oversight. The ISBE Nutrition Department requested and received a waiver of significant number of regulatory monitoring requirements under Child Nutrition Programs (SNP, CACFP Center and Homes, and SFSP).

FY 2022 has continued to see multiple challenges from the continued spread of the COVID-19 virus and the variant pandemic for the child care agencies, schools, and state agency operations. The schools and School Food Authorities have learned to operate in-person with the virus using mitigations; however, operations are far from normal. It is ISBE's intention to try and review schools and SFAs onsite as much as schools and SFA can handle without significant disruption. Based upon feedback from schools and SFAs, they have significant staffing and supply issues. Therefore, they may not be able to comply timely to review request if time does not allow and nutrition information is not available. Therefore, ISBE will request a waiver of review requirements for FY 2022.

Summer FY 2022, the COVID variant is still present in Illinois. Schools and SFAs are planning on how to address summer schooling and programming options available. Many schools and SFA are waiting to determine summer schooling and programming based on COVID numbers and student participation. ISBE anticipates schools will participate in large numbers in addition to our summer sponsors.

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

See Itemized list of regulations to waive.

State agency Monitoring Requirements

Summer Food Service Program (SFSP):

[7 CFR 225.7(d)] Program monitoring and assistance:

- ☒ [7 CFR 225.7(d)(2)(ii)] Required reviews are conducted onsite.
- ☒ [7 CFR 225.7(d)(2)(ii)(D)] Review every sponsor at least once every three years.
- ☒ [7 CFR 225.7(d)(2)(ii)(E)] Conduct reviews of at least 10 percent of each sponsor's sites or one site, if that's greater.
- ☒ [7 CFR 225.7(d)(6)] Inspect FSMC facilities.

Sponsoring Organization Monitoring Requirements

Summer Food Service Program (SFSP):

- ☒ [7 CFR 225.15(d)] Required site visits/reviews are conducted onsite.
- ☒ [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 procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:

- Describe how the current program circumstances and flexibilities impact oversight requirements and timeframes, and assess if a waiver may provide the opportunity to streamline these requirements.

Currently, the schools and sponsors are participating in higher numbers based upon higher reimbursement, student learning loss and normal operations for summer programming. Schools and sponsors may participate in numbers that ISBE cannot comply with program regulations to meet compliance.

- Clearly state the Federal statutory and regulatory requirements that the State agency is requesting to waive and include any effective oversight measures which are proposed as an alternative.

Please see item number No. 5.

- In the rationale for the waiver request, include information or data on the number of Child Nutrition Program sponsors and/or program operators operating each Program within the State

Currently, ISBE Nutrition has approximately 1,100 schools operating under USDA COVID-19 waivers – SSO and a small number of traditional NSLP. The traditional SFSP non-school sponsor approximate 100 sponsor. The total includes schools/sponsors that have never participated in SFSP. The new sponsor process takes additional office staff and monitoring time to get them approved to operate. Additionally, the previous non-school sponsors may not have operated in FY 20 or 21 from the pandemic. ISBE anticipates an increase volume in technical assistance visits for this summer season.

- Describe effective oversight measures the State agency will implement to ensure Program integrity, identify any misuse of Federal funds, and identify fraudulent activities.

ISBE Nutrition will be conducting onsite reviews unless a COVID outbreak requires the agency to work remotely for an extended period of time. As of this writing, we have elected to conduct onsite reviews for SSO and SFSP. Depending on the volume of sponsors, we will attempt to visit a site within each sponsor. It is possible that we may have more sponsors than it is possible to review in the summer operation

period. ISBE will assess the risk of performance based on factors such as new sponsor, prior performance, claim comparison, etc., to determine the onsite visit order. Based upon onsite review performance and other complaint factors or meal count edits, we will assign each monitor a minimum of administrative reviews. As of this writing, it would be 28 administrative reviews.

ISBE has modified the SSO and SFSP review forms to note when waivers may apply to avoid potential citations allowed under waivers. ISBE will continue to apply edits against claims. ISBE will investigate any suspected fraudulent claims or claims that fall outside of normal claiming patterns.

- Submit waiver requests that minimize duplicative Program oversight activities.

In all instances above, new sponsors will have a review (in person unless travel is restricted) prior to approval into the program. In addition, ISBE Nutrition will conduct an onsite review and will prioritize first-year review of operation to promote program compliance. Sponsors operating prior to the pandemic will not be considered new to a program for risk purposes.

- Specify training and technical assistance measures the State agency will to assist Program operators and ensure that Program requirements are met.

ISBE Nutrition has provided technical assistance over the phone throughout the application process and waiver process. In addition, ISBE Nutrition has provided webinars to SSO and SFSP sponsors. Monitoring staff will be used for new sponsors and to follow up with schools/non-school sponsors for FY 2022. ISBE Nutrition monitors are assigned to specific areas of the state so sponsors know how to reach staff for technical assistance. ISBE Nutrition has a dedicated email address for questions. It is monitored daily and responses are assigned to areas best suited for assistance.

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]:

There are currently no state level regulatory barriers related to this specific issue.

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

ISBE Nutrition does not anticipate that the establishment of this statewide waiver will pose any challenges at the state or SFA level. ISBE Nutrition may have burdens in future years returning to normal review cycles depending on state budgets and the ability to reinstate operations once the pandemic has passed. ISBE Nutrition has noticed a number of retirements of program administrators. It will slow the review processes in future years as technical assistance and retraining will take additional time.

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 establishment of this statewide waiver will not increase the overall cost of the program to the federal government. As of this writing, current SAE funds are projected to be sufficient to implement ISBE Nutrition operations.

10. Anticipated waiver implementation date and time period:

The anticipated statewide implementation start date is upon approval from USDA and is to remain in effect through Sept. 30, 2022.

11. Proposed monitoring and review procedures:

See above.

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

ISBE Nutrition will report to USDA.

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]:

<https://www.isbe.net/Pages/Waivers-Public-Notices.aspx>

14. Signature and title of requesting official : 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



Mark Haller
Director
Nutrition Department

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:

Regional Office Analysis and Recommendations: