

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(l) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(l), 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 (CNPs), 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 Street
Springfield, IL 62777

Mark Haller, Director
mhaller@isbe.net
271-782-2491

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), Child and Adult Care Food Program (Centers and Homes), Summer Food Service Program (SFSP).

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]:

On March 17, 2020 Illinois' Governor 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 acceptable level to conduct normal food service operations. Therefore, USDA has extended numerous waivers to assist the states to provide meals in Child Nutrition Program 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 Food and Nutrition Service has provided flexibilities to allow for off-site reviews in 2021 in order to help minimize potential exposure to the novel coronavirus (COVID-19).

The Food and Nutrition Service (FNS) recognized the current exceptional circumstances of this public health emergency and released Nationwide Waivers through June 2021. ISBE Nutrition has providers operating different programs, at different times of the year, rather than their traditional operations. As a result, ISBE Nutrition and its providers need to modify their oversight and review plans. In planning our oversight activities for the coming year, ISBE Nutrition 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.

Therefore, FNS provided the opportunity for State agencies to submit a waiver request of both State and local Child Nutrition Program monitoring requirements with a justification through proposed alternative plan for conducting effective Program oversight in fiscal year 2021. For FY 2021, ISBE Nutrition is requesting to waive a significant number of regulatory monitoring requirements under Child Nutrition Programs. (SNP, CACFP Center and Homes, and SFSP) and conduct limited scope reviews and technical assistance.

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.

Child Nutrition Programs Monitoring and Oversight Plan Checklist

State Agency Monitoring Requirements

National School Lunch Program (NSLP):

- [7 CFR 210.10(h)(2)] Requirement to review trans-fat.
 - [7 CFR 210.18] Administrative review:
 - [7 CFR 210.18(c)] Timing of administrative reviews and cycle.
 - [7 CFR 210.18(e)] Number and type of schools to review, including Seamless Summer Option review requirement.
 - [7 CFR 210.18(f)] Scope of review.
 - [7 CFR 210.18(i)(3)] Notification time frames (review reports, etc.).
 - [7 CFR 210.18(l)] Fiscal Action.
 - [7 CFR 210.18(m)] Transparency requirements.
 - [7 CFR 210.18(n)] Reporting requirements.
 - [7 CFR 210.18(p)] Appeals process and deadlines.
 - [7 CFR 210.19(a)(5)] Food Service Management Company (FSMC) review cycle requirements.
 - [7 CFR 245.11(a)-(b)] Notification of second review of applications.
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In addition, 7 CFR 210.19 requiring State Agencies responsibility to maintain oversight of sponsors implementation of 7 cfr 210.16 and 7 CFR 210.21(c) on a 3 year cycle. Please note that Illinois has previously filed and received a waiver to extend the review cycle for procurement reviews.

Summer Food Service Program (SFSP):¶

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

[7-CFR-225.7(d)(2)(ii)(A)] Review new sponsors within the first year of operating.¶

[7-CFR-225.7(d)(2)(ii)(B)] Annually review sponsors whose reimbursements count as half the aggregate from the previous year.¶

[7-CFR-225.7(d)(2)(ii)(C)] Annually review sponsors who had operational issues the year prior.¶

[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)(2)(iii)(3)] Conduct follow-up reviews of sponsors and sites as necessary.¶

[7-CFR-225.7(d)(2)(iii)(6)] Inspect FSMC facilities.¶

Child and Adult Care Food Program (CACFP):¶

[7-CFR-226.6(m)(2)] Review priorities.¶

[7-CFR-226.6(m)(3)] Review content:¶

(i) Recordkeeping (including all records listed at [7-CFR-226.15(e)]);¶

(ii) Meal counts;¶

(iii) Administrative costs;¶

(iv) Any applicable instructions and handbooks issued by FNS and the Department, and any instructions and handbooks issued by the State agency which are not inconsistent with the provisions of this part;¶

(v) Facility licensing and approval;¶

(vi) Compliance with the requirements for annual updating of enrollment forms;¶

(vii) If an independent center, observation of a meal service;¶

(viii) If a sponsoring organization, training and monitoring of facilities;¶

(ix) If a sponsoring organization of day care homes, implementation of the serious deficiency and termination procedures for day care homes and, if such procedures have been delegated to sponsoring organizations, the administrative review procedures for day care homes;¶

(x) If a sponsoring organization, implementation of the household contact system;¶

(xi) If a sponsoring organization of day care homes, the requirements for classification of tier I and tier II day care homes; and¶

(xii) All other Program requirements.¶

[7-CFR-226.6(m)(4)] Review of sponsored facilities.¶

[7-CFR-226.6(m)(6)] Frequency and number of required institution reviews. Annually review at least 33.3% of all institutions according to the schedule:¶

(i) Review independent centers and sponsoring organizations of 1 to 100 facilities at least once every three years and include reviews of 10% of their facilities;¶

(ii) Review sponsoring organizations with more than 100 facilities at least once every two years and include reviews of 5 percent of the first 1,000 facilities and 2.5 percent of the facilities in excess of 1,000; and¶

- (xii) All other Program requirements. ¶
- [7-CFR-226.6(m)(4)] Review of sponsored facilities. ¶
- [7-CFR-226.6(m)(6)] Frequency and number of required institution reviews. Annually review at least 33.3% of all institutions according to the schedule. ¶
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 - (ii) Review sponsoring organizations with more than 100 facilities at least once every two years and include reviews of 5 percent of the first 1,000 facilities and 2.5 percent of the facilities in excess of 1,000; and ¶
 - (iii) Review new institutions that are sponsoring organizations of five or more facilities within the first 90 days of Program operations. ¶

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Sponsoring Organization Monitoring Requirements ¶

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National School Lunch Program (NSLP): ¶

- [7-CFR-210.8(a)(1) & 220.11(d)(1)] SFA reviews by February 1. ¶
- [7-CFR-210.9(c)(7)] Afterschool care reviews. ¶

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Summer Food Service Program (SFSP): ¶

- [7-CFR-225.15(d)(2)] Visit sites at least once during the first week of operation. ¶
- [7-CFR-225.15(d)(3)] Review food service operations at each site at least once during the first four weeks of operation. ¶

Child and Adult Care Food Program (CACFP):¶

[7-CFR-226.16(d)(1)]: Pre-approval visits.¶

[7-CFR-226.16(d)(4)(i)]: Reviews that assess whether the facility has corrected problems noted on the previous review(s) and an assessment of the facility's compliance with:¶

(A) The meal pattern;¶

(B) Licensing or approval;¶

(C) Attendance at training;¶

(D) Meal counts;¶

(E) Menu and meal records; and¶

(F) The annual updating and content of enrollment forms (if the facility is required to have enrollment forms on file, as specified in §§226.15(e)(2) and 226.15(e)(3)).¶

[7-CFR-226.16(d)(4)(ii)]: Reconciliation of meal counts.¶

[7-CFR-226.16(d)(4)(iii)]: Frequency and type of required facility reviews. Review each facility three times each year, unless averaging. In addition:¶

(A) At least two of the three reviews must be unannounced;¶

(B) At least one unannounced review must include observation of a meal service;¶

(C) At least one review must be made during each new facility's first four weeks of Program operations; and¶

(D) Not more than six months may elapse between reviews.¶

[7-CFR-226.16(d)(4)(iv)]: Averaging of required reviews.¶

[7-CFR-226.16(d)(4)(iv)]: Follow-up reviews.¶

[7-CFR-226.16(d)(4)(iv)]: Notification of unannounced reviews.¶

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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 State of Illinois has a no travel policy for employees within Illinois unless the travel is considered essential (mandatory) by the Governor's rule. ISBE Nutrition is not considered essential travel. Therefore, ISBE Nutrition has not been allowed to travel since the pandemic began officially on March 19, 2020. The travel ban has no formal date of termination when travel may resume to conduct reviews onsite. The number of sponsors and federal requirements to conduct reviews is not possible under the travel ban.

- 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 #5. ISBE Nutrition is proposing to conduct a lesser "desk review" in place of the traditional administrative reviews conducted under the various program. The exception is school lunch program. With a limited number of sponsors, it was a better use of state limited monitoring resources to desk review SFSP, CACFP Centers and CACFP home providers primarily.

- 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 transferred most NSLP schools to SFSP feeding. Typically, we would have approximately 150 SFSP sponsors per year. This year under USDA COVID waivers, we have in excess of 950 sponsors participating in SFSP. The total includes very few community sponsors as schools have participated in large numbers to feed the children. Under normal circumstances, we would have 1,050 NSLP sponsors, we have less than 65 sponsors participating. Most participants in NSLP are RCCI's and parochial schools. CACFP participation has dipped to approximately 700 sponsors. Most sponsors are participating in the at-risk portion of the program. We do have child care centers in operation, but most are operating at reduced capacity and staff.

- 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 not be conducting any onsite reviews for the foreseeable future. We have elected to review the primary review areas of the administrative reviews of the SFSP and CACFP programs. The primary areas were reduced to eliminate the onsite portion and take a sample of documentation to provide overview of the sponsor's operations. In addition, ISBE Nutrition modified the CACFP Homes Site review to remove the onsite portion as well while requesting some provider and sponsor data to review for compliance. The desk review does not attempt to complete an administrative review for any program during the COVID time period. The desk reviews are designed to spot check major areas of the program for compliance purposes and provide reasonable assurance the program integrity is followed. Technical assistance will be provided as part of the reviews as necessary. The desk reviews will provide a written report and take limited fiscal action with appeal rights if necessary for program deficiencies.

- Submit waiver requests that minimize duplicative Program oversight activities.

Since ISBE Nutrition is waiving all review requirements for FY 2021, it will not duplicate any reviews during the pandemic period. ISBE Nutrition plan is conduct a number (as time allows) of desk reviews for SFSP and CACFP sponsors during FY 2021. As noted early, these reviews are limited in scope. When the pandemic is over, ISBE Nutrition will begin conducting regulatory approved reviews. ISBE Nutrition will use the following process reset or begin back to cycle reviews in FY 2022:

SNP – 66 providers are operating in NSLP. ISBE Nutrition would not conduct any reviews under NSLP (AR and Procurement) unless information came forward to warrant a review. As noted earlier, the risk is minimal with small parochial schools and RCCI's. Claiming data limits providers to enrollment only. ISBE Nutrition lost a substantial portion of the SY 19/20 school year and has very limited sponsors participating in SY 20/21. The NSLP AR reviews would restart for SY 21/22 and complete the review cycle by SY 25/26. ISBE Nutrition requests 2 additional years to the current review cycle for administrative reviews and procurement reviews.

CACFP Homes – The homes program administrative reviews will begin when travel is allowed. We would recommend starting the timeframe of sponsor reviews as of FY 19/20 year. ISBE Nutrition conducts administrative reviews during the Spring, Summer and Fall months. All administrative reviews were lost in FY 19/20 and as of this writing for FY 20/21. Therefore, sponsors requiring review in FY 19/20 will be moved to FY 21/22. ISBE Nutrition would conduct the remaining review for the sponsors in FY 22/23. As noted above, ISBE Nutrition will conduct modified site reviews under all our sponsoring organizations throughout federal fiscal year 20/21.

CACFP Centers – ISBE Nutrition would begin the 3-year cycle for administrative reviews starting in FY 21/22. The sponsors would be chosen based on the sponsor's last administrative review or desk audit review. ISBE Nutrition would prioritize sponsors not reviewed by a desk review and last review conducted in FY 2019. The three-year cycle would be completed by FY 23/24.

In all instances above, new sponsors will have a modified desk review prior to approval into the program. In addition, ISBE Nutrition will conduct a desk audit review within the first few months of operation to promote

program compliance. Sponsors operating prior to the pandemic will not be considered new to a program (example – NSLP school participating in SFSP and CACFP).

- 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 numerous phone call technical assistance visits. In 6 months, ISBE Nutrition has moved sponsors to the SFSP program, back to NSLP and back to SFSP program. In addition, many SFSP sponsors are participating in CACFP at-risk as well. Many sponsors have called with questions. In some cases, we provided lists to monitoring staff to reach out to sponsors regarding claims and program participation. Further, ISBE Nutrition assisted sponsors with menus, claims and general compliance.

ISBE Nutrition monitors are assigned to specific areas of the state so sponsors know how to reach staff for 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 since school food service operating under the waiver would essentially operate the same as under the previous waivers. 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 September 30, 2021.

11. Proposed monitoring and review procedures:

See above.

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

No later than September 30, 2021, 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/Documents/CNP-State-Waiver-Request.pdf>

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:**