

March 25, 2022

Diane Fulton
United States Department of Agriculture
Mountain Plains Regional Office
1244 Speer Blvd Suite 903
Denver, CO 80204-3581

Subject: Summer Food Service Program State Waiver Request for State Oversight Waiver

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

SD Department of Education, Child and Adult Nutrition Services
Cheriee Watterson, Division Director
800 Governors Drive
Pierre, SD 57501-2235
605-773-3413
Cheriee.Watterson@state.sd.us

2. Region: Mountain Plains (MPRO)

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

This waiver request is applicable statewide for any Public or Private School Food Authorities (SFAs) or sponsor agencies that are in good standing with the South Dakota Department of Education (SD DOE) to operate the **Summer Food Service Program (SFSP)**. This waiver will apply to all SFAs and sponsor agencies that have an approved application with the SD DOE.

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]:

SFSP Challenges:

Supply Chain Disruptions

- Starting in mid-August 2021, SFAs and sponsor agencies began reporting supply chain issues as they began filling their storerooms in preparation for the 2021-22 program year (PY). Some issues include: truck delays, backordered products (food and supplies), cancellation of planned products, price increases, and contract terminations. These issues are ongoing and still present challenges to date. As a result, the following challenges emerged for our SFAs and sponsor agencies:
 - Unpredictable food supply due to cancellations or changes in what was ordered vs. what was delivered, causing countless last minute menu changes.
 - Quality of fresh fruit and vegetables, including cut and pre-packed, is declining as supply chain issues increase in our state. Fresh produce is delivered close to the use-by date, requiring

SFAs and sponsor agencies to dedicate extra time to sort and remove produce, and trim portions of ready-to-use produce to improve customer satisfaction.

- Locating vendors with available meal packaging materials in adequate quantity, such as disposable trays, bowls, lidded cups, and bowls as well as personal protective equipment, cleaning supplies, and sanitizing chemicals is becoming increasingly difficult.
- Unexpected increases in food prices require SFAs and sponsor agencies to reevaluate budgets, evaluate food prices, and find cost-effective alternate products. Price increases in processed foods are pushing some schools to adopt additional scratch cooking recipes, which can further pressure labor shortage issues.
- One major food distributor in South Dakota cancelled contracts in early September with approximately 60 school districts in and around the Sioux Falls area. This is the most densely populated part of our state with the seven counties (Clay, Lincoln, McCook, Minnehaha, Turner, Union, and Yankton) accounting for 36.29% of the population.
- The USDA Food Distribution Program is also facing food order cancellations and contracted warehouse and distribution worker shortages. This decreases food availability and forces schools to purchase commercial products normally fulfilled by USDA Foods.

Staff Shortages

- SFAs and sponsor agencies have also been facing staff shortages, as there are not enough staff available to cook, serve, and clean up in the program.
 - Many food service staff in South Dakota are elderly and at high risk of developing a severe illness from a COVID-19 infection.
 - Some of the state's highest-need schools have been operating a hybrid schedule for portions of the PY2021-2022. Program staffing has become a problem issue and many SFAs and sponsor agencies are facing an increased need for employees to operate the program and feed children.

Increased Workload:

- Due to the COVID-19 pandemic, SFAs and sponsor agencies have faced a significant increase in workload.
 - Healthy meals provided to in-school and virtual students has increased workloads in SFAs and sponsors that are implementing multiple feeding methods while also maintaining sanitation requirements in School Year 2021-22. As a result, many staff are burnt out and may not volunteer to work during summer breaks as they did in previous years.
 - If USDA is not granted Nationwide Waiver authority, SFAs and sponsor agencies will need to reacclimate themselves to normal program operations and train staff on typical program operations.
- Based on our experience in PY2019-20 and 2020-21 with virtual compliance reviews conducted for SFSP, we learned that virtual review visits require a great deal of SFA and sponsor agency time.
 - Often, SFAs and sponsor agencies needed to learn new forms of communication via video conferencing platforms for virtual visits. Many SFAs and sponsor agencies do not have laptops available for the food service department capable of video and microphone use.
 - Virtual compliance reviews require a significant increase in SFA and sponsor agency time to collect, scan, and submit a wide variety of review documents and information that, in a normal review, is done seamlessly and is unintrusive to the SFA and sponsor agency.

Additional Information:

- The SFSP review schedule is based on sponsors that apply for the program. Currently we have 54 sponsors that we anticipate operating this program year. This would result in approximately 20 reviews to be completed during summer 2022.
- SFSP Compliance reviews in South Dakota are currently transitioning to an online Colyar system that will require training for SFAs and sponsor agency staff.
- State Agency hiring for the SFSP and CACFP Specialists is currently ongoing as both of our specialists have resigned. This team of specialists are primarily responsible for the day-to-day training and technical assistance provided by the SA for SFSP. Once we hire a new team, both specialists will be new, and will likely not have full operating knowledge of the SFSP, including review procedures.

Goals:

The SD DOE is requesting a waiver approval to add one additional year to the current South Dakota Administrative Review cycle in use for SFSP.

With the approval of this waiver request, SD DOE will add one year to the AR cycle for SFSP. To explain further, this waiver flexibility will result in adding a fourth year to the three-year review cycle. SFSP ARs scheduled for PY2020-21 will be conducted in PY2022-23.

Outcomes:

This flexibility will provide a much-needed burden reduction for the SFAs, sponsor agencies, and State Agency and allow food service directors time to work through issues they currently face at the local level. The State Agency plans to conduct Technical Assistance (TA) visits for SFAs and sponsor agencies that need additional assistance. The TA visits will allow the State Agency to focus on providing timely, focused technical assistance. SFAs and sponsor agencies will have the opportunity to discuss the specific challenges they face, and the State Agency can share strategies to overcome those challenges. Each TA visit will have a completed document that will include a summary of documents reviewed and technical assistance provided to the SFA or sponsor agency. SD DOE is not requesting a waiver for SFA or sponsor level monitoring reviews for SFSP.

SD DOE will continue to offer additional opportunities for training and technical assistance, including increased time to spend on one-on-one targeted technical assistance with SFAs and sponsor agencies. The State Agency will check in and assist with the unique challenges of each SFA and sponsor agency, helping ensure program requirements are met.

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

The South Dakota Department of Education (SD DOE) requests a waiver of the following SFSP regulations:

State agency Monitoring Requirements

- 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; and

- 7 CFR 225.7(d)(6) Inspect FSMC facilities.

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

There are no impacts on technology or State systems for Child Nutrition Programs as a result of this waiver request.

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]:

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:

We anticipate this waiver will reduce challenges faced by SFAs, sponsor agencies, and the State agency.

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]:

Use of this waiver will not increase the overall cost of the Program to the Federal Government. There are no additional staff costs to implement this waiver.

10. Anticipated waiver implementation date and time period:

Implementation start date of immediately and is to remain in effect through September 30, 2022.

11. Proposed monitoring and review procedures:

The SDDOE will continue to maintain a high level of program integrity through PY2021-22 through the following methods:

- Monthly check-in calls/webinars will be conducted. All schools and agencies on any Child Nutrition Program are invited to attend. Additional program specific calls are scheduled when necessary. The call structure includes updates and report outs from CACFP, SNP, SFSP (including FFVP, USDA Foods in schools) and includes information regarding waiver flexibilities, new or updates to guidance, sharing resources from other partner agencies, sharing best practices between programs, and allowing time for questions and discussion from the SFAs and sponsor agencies.
- Bi-weekly live webinar training events are available to all SFAs and sponsors on a child nutrition program. These webinars are recorded and placed on the SD DOE website for future reference and for SFAs and agencies that were unable to attend the training.
- A monthly nutrition bulletin with program updates, resources, trainings, reporting deadlines, etc. is created, emailed, and posted on the SD DOE website.
- Technical Assistance visits at targeted SFAs and sponsor agencies that need additional assistance.
- Continue to provide high quality, rapid communication, and technical assistance by:
 - Providing one-on-one communication (via verbal, video calls, emails), guidance, and program instruction for SFAs and sponsor agencies. As part of our submitted plan, SD DOE will focus these discussions on new sponsors and those with operational problems the previous year;
 - Providing targeted assistance in the completion of program agreements and renewals
 - Providing one-on-one communication with program operators to obtain procedures for meal service operation as it continues to evolve based on the pandemic and the needs of the local school or community;

Providing targeted program and agreement training for SFAs and sponsor agencies transitioning to the Seamless Summer Option or Summer Food Service Program, many of whom have not previously operated either of these summer feeding options.

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

The State Agency will report to FNS regional office one year after the approved implementation date 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]:

<https://doe.sd.gov/cans/index.aspx> located under "Announcements" tab

14. Signature and title of requesting official:

Cheriee Watterson, Division Director
Child and Adult Nutrition Services
SD Department of Education
(605) 773-3413
Cheriee.Watterson@state.sd.us

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:

Recommend Approval Recommend Denial