

July 2, 2020

Diane Fulton,  
Mountain Plains Regional Office  
1244 Speer Blvd Suite 903  
Denver, CO 80204-3581

Subject: Child Nutrition Program State Waiver Request to SSO Administrative Reviews.

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

SD Department of Education, Child and Adult Nutrition Services  
Cheriee Watterson, Office Administrator  
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**2. Region:** Mountain Plains

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

This waiver request is applicable statewide for any Public and Private School Food Authorities (SFA's) approved by the South Dakota Department of Education to operate the National School Lunch Program and are in good standing to operate food services under the Seamless Summer Option.

**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:

Adhering to the regulation of scheduling Seamless Summer Option (SSO) reviews during the summer following an Administrative Review (AR), will add twenty reviews to our summer. While this sounds like a small number, we are a small State agency staff with one person that is responsible for the entire SSO in addition to primary duties of managing the SFSP and assisting with the SNP. So, this is a significant amount of additional, unplanned work. We originally had three SSO reviews scheduled for Summer 2020 prior to COVID-19 and with the unexpected closure of schools, we added an additional twenty reviews to that. This brought our total reviews for SSO to twenty-three.

Of the twenty-three total reviews:

- 3 SFAs are planning to serve meals beyond June 30, 2020
- 4 SFAs have ceased summer feeding on June 30, 2020
- 16 SFAs have ceased summer feeding in May (on their last scheduled day of school)

Since some SFA have ceased operation, there is no opportunity to observe a meal service as required by the Administrative Review.

Each SFA undergoes a comprehensive Administrative Review during the normal review cycle and their most recent Administrative Review was completed successfully. All SFAs that have operated the SSO in SY 19-20 are in good standing with SD DOE.

The State agency and the SFAs have faced and continue to face significant and unplanned increases in workload since the start of the coronavirus pandemic for the following items:

- Since mid-March, the SA conducts (at minimum) a weekly communication with all schools, sponsor agencies, and school superintendents to communicate new waiver flexibilities, flexibilities that are expiring, assisting with evolving emergency feeding programs to best reach families in need, answering questions, facilitating the sharing of best practices, menus, health and food safety information, and providing reassurance and support for school and sponsor staff that are stressed and exhausted.
- Since mid-March, SA staff worked with 136 SFAs (with 186 emergency feeding sites) to renew applications to include USDA waiver flexibilities to ensure proper monitoring and integrity requirements are followed. Changes to SFA applications require SA approval to occur each time a new waiver flexibility was released or extended and every time a modification was made to the SFAs emergency feeding operation. There are some applications that have been updated six or more times due to evolving needs of this state of emergency.
- The SA had to revamp and conduct virtual trainings to help our schools and sponsor agencies across SNP and CACFP to properly plan for program changes in the upcoming school year. The virtual training format was previously not utilized for these trainings. Newly created training topics include waiver flexibilities, proper procurement during the pandemic, and taking proper protections for staff and students. Many of our normal training topics were also adjusted for this state of emergency.
- The school year 2020-21 renewal applications for SNP and CACFP must be significantly adjusted to properly track and monitor SFA use of recently released USDA waiver flexibilities and extensions.
  - Our normal SY20-21 SNP renewal application was completed in December and rolled out to SFAs in May. The updates for the newly released waivers were unplanned and occurred in addition to our normal annual updates.
- The SA has provided a significant amount of targeted assistance to SFAs to adapt current procurement contracts and to assist SFAs with changes to normal procurements that typically occur over the summer. SFAs have required assistance to properly use emergency procurement options (when it is appropriate) and planning to procure for flexible meal service models (i.e. “to go” meals, meals served in the classroom or alternate school locations, etc.)
- SFAs are also operating under an additional workload to prepare for multiple feeding methods in school year 2020-21. Most schools are planning to offer meals to in-school students as well as some “to go” or meal delivery options (where allowed by waiver flexibilities). SFAs are trying to find reliable vendors for PPE and cleaning/sanitizing chemicals which are in very scarce supply. SFAs are overhauling menus this summer to allow for safe meal service, limit choices given to students, and to create menus that can transition for service in the cafeteria, in the classroom, or on the go. All of these items must be planned to fit within the limited school food service budgets.

For the above reasons, the SA has not completed any SSO reviews at the time of this waiver request and will be unable to conduct reviews by August 31, 2020. For the above reasons, SFAs cannot handle additional, unexpected SSO reviews by August 31, 2020.

Starting the SSO reviews at this time would require a significant amount of time to complete. The estimated burden for SFAs to collect, assemble and submit supporting meal count paperwork or reports from computer systems, food labels and nutritional information, production records is at least 20 hours due to the split responsibilities that most of our small and very small schools typically operate under. Currently most schools have ceased SSO service and do not have scheduled food service employees at the school for the summer. Under normal conditions, many of our small and very small SFAs struggle to submit required paperwork within SSO Administrative Review deadlines. This pushes the review process to occur, at minimum, over 30-days and typically over multiple months.

Of the 23 schools that should have received an SSO review this summer:

- 20 SFAs successfully completed an Administrative Review in SY19-20
- 3 SFAs have successfully completed an SSO Administrative Review in previous summers
- 13 SFAs have not operated a summer feeding program (SSO or SFSP) and most may not be eligible to operate these programs without the waivers granted by the USDA

Please note that Summer Food Service Program (SFSP) reviews are being completed on schedule this summer with modifications that allow for virtual observational monitoring and a “desk” review. All 25 reviews have been started; the SFAs are struggling to respond to the extra work associated with the review but are expected to be closed without significant delays. The number of scheduled SFSP reviews has slightly increased due to the pandemic. The SA has also experienced staff turnover and the current SSO lead has not conducted SSO reviews in the past. With all new staff, there is a learning curve that creates an additional challenge for the timely completion of work duties.

#### Goal and Expected Outcomes:

The SD DOE is requesting approval to waive SSO reviews for the SY 2019-20 summer. This will provide a necessary burden reduction for the State Agency and the SFAs. This will also allow time for training and technical assistance, planning for significant program changes expected in SY 2020-21, and ensuring program requirements are met. This burden reduction is vital to ensure nutritious meals continue to be available to children in need during the economic hardships due to COVID-19.

Approving this waiver request will relieve a significant burden to SD DOE and the 23 SFAs that have operated SSO. It is SD DOE’s assessment that there is minimal risk to program integrity as we are in nearly weekly contact with all SFAs.

**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 requests a waiver of regulations at 7 CFR 210.18(e)(3)(ii).

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

If approved, the South Dakota Department of Education will continue to provide technical assistance to SSO sponsors on the SSO program requirements. There are no impacts on technology or State systems.

**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:**

We anticipate this waiver will reduce challenges faced by SFAs and the State Agency. Children have benefitted from the extended feeding at SSO sites.

**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 when programs are able to provide continued service and food assistance during an emergency. There are no additional staff costs to implement this waiver.

**10. Anticipated waiver implementation date and time period:**

The anticipated waiver implementation start date is June 1, 2020 and is to remain in effect through August 31, 2020.

**11. Proposed monitoring and review procedures:**

State agency staff will conduct Administrative Reviews as scheduled and provide technical assistance as needed. State agency staff will work with sponsors to ensure SSO operation follows program requirements.

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

The State Agency will report to FNS regional office any compliance issues noted with this flexibility during the application approvals and reviews by December 31, 2020.

**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://doe.sd.gov/cans/index.aspx> under "Announcements" tab.

**14. Signature and title of requesting official:**



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**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:**

Recommend Approval

Recommend Denial