



United States
Department of
Agriculture

Food and
Nutrition
Service

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DATE: December 12, 2014

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SUBJECT: Summer Food Service Program Waiver Request Guidance
and Protocol

TO: Regional Directors
Child Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All Regions

The purpose of this memorandum is to provide guidance and introduce new procedures for State agencies requesting waivers of Summer Food Service Program (SFSP) requirements. The Food and Nutrition Service (FNS) may use waiver authority to support State agency and sponsor innovation to improve access to the SFSP. This memorandum also supersedes SFSP 01-99, *Sponsor and Site Application Requirements*, December 4, 1998.

The Richard B. Russell National School Lunch Act (the Act) grants the Secretary the authority to waive Program requirements for State agencies or sponsors that request a waiver, if it is determined that:

- the waiver supports the purpose and intent of the SFSP,
- the State or sponsor provided notice and information to the public regarding the proposed waiver, and
- the request demonstrates that the waiver will not increase the overall cost of the Program to the Federal Government, and if it does increase the cost, the cost will be paid from non-Federal funds [42 USC 1760(1)].

The Act also restricts the Secretary's authority to grant waivers that relate to a number of topics, including:

- the nutritional content of meals served,
- Federal reimbursement rates,
- eligibility for free meals,
- distribution of funds to State agencies and sponsors,
- disclosure of individual income eligibility information,
- prohibition of the operation of a profit producing program,
- the commodity distribution program, and
- enforcement of any constitutional or statutory right of an individual.

Due to national efforts to expand access to summer meals for children through the SFSP, FNS has received numerous requests to waive Program requirements. FNS acknowledges and supports State agencies and sponsors in their continued efforts to enhance flexibility in the administration and operation of the Program and better serve participants through innovative approaches.

In recent years, FNS has issued guidance updating and consolidating a variety of Program policies which was recently summarized in SFSP 16-2014, *Streamlined and Simplified Summer Food Service Program Requirements: Frequently Asked Questions*, April 24, 2014, available at <http://www.fns.usda.gov/sites/default/files/SFSP16-2014os.pdf>. However, FNS must ensure that the purpose and intent of the SFSP is maintained and the integrity of the Program is safeguarded. With this in mind, waivers can afford States additional flexibility to reach more children in a measured and responsible way.

Waiver Request Protocol

FNS has developed a form that may be used by State agencies submitting requests to waive Program requirements capturing the elements required by the Act as well as other information that will assist FNS in processing the request [**Attachment A**]. The Act requires State agencies, and sponsors making such requests through their State agencies, to submit requests to the FNS Regional Office (RO) [42 USC 1260(1)(2)]. The request must:

- identify the statutory or regulatory requirements requested to be waived;
- describe any steps taken to address barriers at the State level;
- describe the goal of the waiver to improve access to and/or the administration of the Program and the expected outcomes if the waiver is granted; and
- describe how the waiver will address or remove impediments to the efficient operation and administration of the Program.

State agencies are encouraged to consult with FNS when developing waiver requests to ensure a well-reasoned, thorough request is submitted. SFSP waiver requests will be approved on an annual basis; therefore, sponsors and State agencies should plan accordingly for each year of Program operation. In order to ensure FNS is able to conduct a detailed review of each request, State agencies are encouraged to submit waiver requests at least 60 calendar days prior to the anticipated implementation date. However, FNS recognizes that some requests are made in response to emergency situations addressing unforeseen circumstances and will make every effort to expedite response to those requests.

In order to ensure proper oversight and maintain program integrity, waiver requests should propose relevant monitoring and review procedures. The waiver request should also propose reporting requirements that will enable FNS to assess the waiver's effect on the efficient operation and administration of the Program.

Regional Directors
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FNS is committed to affording States and Program operators the flexibility and resources needed to ensure children facing food insecurity are provided nutritious meals in the summer. Abiding by the authority to waive Program requirements granted by the Act, FNS has developed this waiver request protocol to maintain Program integrity while streamlining the request and approval process. FNS is committed to working closely with State agencies to provide technical assistance to ensure that waiver requests contain the necessary information for consideration and successful implementation.

State agencies are reminded to distribute this information to Program operators immediately. Program operators should direct any questions regarding this memorandum to the appropriate State agency. State agency contact information is available at <http://www.fns.usda.gov/cnd/Contacts/StateDirectory.htm>. State agencies should direct questions to the appropriate FNS RO.

A handwritten signature in black ink, appearing to read "Ang Kline". The signature is written in a cursive, flowing style.

Angela Kline
Director
Policy and Program Development Division
Child Nutrition Programs