



Matthew L. Blomstedt, Ph.D., Commissioner

NEBRASKA

DEPARTMENT OF EDUCATION

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February 1, 2019

Marcellus Goodwin
Mountain Plains Regional Office
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RE: Meal Service Time Restrictions

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

Nebraska Department of Education, Nutrition Services

Sharon Davis, Administrator, sharonl.l.davis@nebraska.gov, 402-471-3559
Kayte Partch, Program Specialist, Kayte.partch@nebraska.gov, 402-471-2945

2. **Region:** Mountain Plains

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

This waiver request is intended to apply to all of Nebraska's approved sponsors in good standing.

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]:**

The Nebraska Department of Education (NDE) is requesting a state-wide waiver for the Summer Food Service Program (SFSP) flexibilities and policies that were rescinded by the USDA Food and Nutrition Service (FNS) on October 11, 2018 through Policy Memorandum SFSP 01-2019. The flexibilities rescinded included those in the Policy Memo SFSP 06-2017 Meal Service Requirements in the Summer

Meals program, with Q&A – Revised. The potential impacts and challenges faced by sponsors resulting from rescission of the flexibilities are outlined below:

Meal Time Restrictions

Sixteen years ago, FNS allowed state agencies to waive meal time restrictions in an attempt to simplify program management and better meet the needs of program participants and the sponsors who operate summer meals. If meal time restrictions are reinstated for sponsors in Nebraska, it is possible that sponsors may choose to operate fewer meal types, and thus serve fewer total meals throughout the summer to children in low-income areas.

In addition to the impact experienced by sponsors, NDE staff would be adversely affected by loss of efficiency in the site application approval process. NDE's online application system would require a rebuild of business rules in the program's software; this undertaking is time-consuming and expensive.

The desired outcome of utilizing this waiver to reinstate flexibilities is more efficient and cost-effective management of the SFSP through reduced administrative burden for NDE staff. Approval of this waiver request will allow NDE to continue utilizing streamlined application approval processes that are thorough, while allowing sponsors to best meet the meal service needs of their participants while accommodating site activities that meal times must sometimes work around.

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

NDE is requesting a waiver to utilize the meal times flexibilities that were rescinded in Policy Memo SFSP 01-2019 regarding meal time restrictions for the amount of time that must elapse between meal service, the time restrictions associated with supper, and the meal time duration restrictions for each meal and snack service. Individual regulations to be waived include:

7 CFR 225.16(c)(1) Three hours must elapse between the beginning of one meal service, including snacks, and the beginning of another, except that 4 hours must elapse between the service of a lunch and supper when no snack is served between lunch and supper. The service of supper shall begin no later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances. These waivers shall be granted only when the State agency and the sponsor ensure that special arrangements shall be made to monitor these sites. In no case may the service of supper extend beyond 8 p.m. The time restrictions in this paragraph shall not apply to residential camps.

7 CFR 225.16(c)(2) The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals.

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

Alternative Procedures:

Sponsors will be required to continue establishing and reporting meal times for each site to NDE in the online application system. Meals must be served within the meal service times in their approved site application(s) in order to be claimed for reimbursement. To simplify program management, accommodate operational requirements and meet the needs of participating children and the sites at which they receive meals; time limits will not be placed on the duration of a meal service or the amount of time that must elapse between the beginning of one meal service and the beginning of the next.

Anticipated impact:

For sponsors, this waiver will allow organizations to continue operating in ways that best meet the needs of their communities and participating children. For NDE, this waiver will significantly decrease the administrative burden experienced by NDE staff and will allow for more cost-effective and efficient oversight of program operations. NDE will continue to follow its thorough application review and approval process and offer detailed technical assistance and training, as well as regulation-focused site visits and compliance reviews that will help ensure program compliance and integrity. In addition, approval of the waiver request will not result in requiring changes to NDE's online application system and will be cost neutral for NDE.

If the waiver request is not approved, the following impacts on program operations could occur:

- Increased costs to NDE for required online application system updates to comply with meal time restrictions.
- The required updates to the online application system may not be in place prior to the start of FY2019, as these processes often take a significant amount of time; if NDE staff are tasked with manually ensuring all sites comply with meal service time restrictions, errors could occur.
- Significant NDE staff time spent to update trainings, re-train sponsors and site staff, and to provide technical assistance.
- Fewer meal types and total meals served at sites could result from meal time restrictions. The meal time restrictions may prevent sites from serving meals at times that align with site activities and the needs of participants. Ultimately, this could negatively impact childhood food insecurity by providing fewer children nutritious meals and snacks.
- Increased operational labor costs for sponsors as it relates to the longer amount of time that must be elapse between meals/snacks.

These combined impacts may result in a significant decrease in access to summer meals, a reduction in the number of meals served to children, and ultimately an increase in childhood food insecurity and hardship across Nebraska.

Meal Time Restrictions:

NDE will place no time limits on the duration of a meal service and no requirements pertaining to the amount of time that must elapse between the beginning of one meal service and the beginning of the next. This will provide sponsors with greater flexibility to meet the needs of their communities. SFSP sponsors will be required to establish meal times for each site and provide this information to NDE through their online site application. Meals must be served within the NDE-approved meal service times in order to be claimed for reimbursement.

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]:

Previously, NDE did not have to address any regulatory barriers, as these flexibilities were in place. The flexibilities and policies rescinded by the USDA FNS through Policy Memo SFSP 01-2019 Summer Food Service Program memoranda Rescission will increase the administrative costs and burden to NDE; it will also create barriers to program access and effective program operation for sponsors. To lessen these barriers, NDE is submitting this waiver request.

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

NDE does not anticipate any challenges associated with the implementation of the flexibilities associated with this waiver request. Internal processes and procedures are already in place to ensure program integrity.

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]:

NDE does not anticipate any impact on Federal administrative costs for State agency oversight with implementation of the flexibilities associated with this waiver request.

10. Anticipated waiver implementation date and time period:

The flexibilities contained in this waiver request will be implemented immediately upon approval for FY2019 and remain in effect for a period of five years.

11. Proposed monitoring and review procedures:

Sponsors and sites will continue to be monitored by NDE per the regulatory guidance of 7 CFR 225.7(2)(ii)(B). NDE's standard review procedures will continue to be followed as in previous years; if noncompliance is identified, NDE will implement a plan for follow-up to ensure compliance is resorted and, if necessary based on our corrective action plan policy and procedures, will require a corrective action plan from the sponsor.

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

NDE will provide FNS with required reports, including documentation of review findings and technical assistance and training provided to sponsors. NDE will report to FNS issues of noncompliance as they pertain to the requested flexibility.

12. 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]:

The following public notice is located at:

<https://www.education.ne.gov/ns/sfsp/news/>

NDE Nutrition Services submitted on February 1, 2019 two state-wide waiver requests to the USDA Mountain Plains Regional Office (MPRO) for the Summer Food Service Program (SFSP) flexibilities that were rescinded by the USDA Food and Nutrition Service through Policy Memo SFSP 01-2019 Summer Food Service Program Memoranda Rescission. The objective of these waiver requests are to restore program flexibilities and policies to allow for efficient and cost effective program management and to reduce the administrative burden for sponsor organizations and NDE staff.

13. Signature and title of requesting official:



Name: Sharon L. Davis

Title: Administrator Nutrition Service Office

Requesting official's email address for transmission of response:
sharon.l.davis@nebraska.gov

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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(l)(1)(A)(ii) of the NSLA

• **Regional Office Analysis and Recommendations:**