



Matthew L. Blomstedt, Ph.D., Commissioner

NEBRASKA

DEPARTMENT OF EDUCATION

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January 12, 2020

Jerilin Nunu
Mountain Plains Regional Office
1244 Speer Blvd Suite 903
Denver, CO 80204-3581

RE: Area Eligibility

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

Nebraska Department of Education, Nutrition Services

Shannon Wilkinson, Assistant Administrator, shannon.wilkinson@nebraska.gov, 402-471-3566
Kayte Partch, Director, 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(NDE) is requesting a state-wide waiver for the Summer Food Service Program (SFSP) flexibilities and policies that were rescinded by the USDA Food and Nutrition Service (FNS) on October 11, 2018 through issuance of Policy Memorandum SFSP 01-2019. The flexibilities rescinded included those in the SFSP Waiver for Closed Enrolled Sites dated 11/17/2002. The potential impacts and challenges faced by sponsors resulting from rescission of the flexibilities are outlined below:

Area Eligibility

All closed enrolled sites approved for operation in FY2019 utilized the approved area eligibility waiver we had in place. Granting the utilization of census data and school attendance area free and reduced price meal data to operate without collecting individual participants' income eligibility documentation relieved a significant administrative burden the sponsors could have experienced without the waiver. FY2019 meals data showed an overall increase in meals served from 2018 to 2019 across all sites using the closed enrolled eligibility waiver. This data supports the continued utilization of this waiver's flexibility for the demonstrated support of expanding access to summer meals through the SFSP. The flexibility to establish closed enrolled site eligibility using census data has reduced the administrative burden experienced by four SFSP Sponsors by helping them efficiently operate the SFSP in a more cost effective manner by not requiring staff to process individual income eligibility applications or to obtain school eligibility data. Additionally, this increased administrative burden could result in errors in eligibility determinations.

The NDE received statements from sponsoring organizations that bring to light the challenges their operations would face if the waiver request is not approved for FY2020.

Omaha Public Schools provided the following statement:

For the past several years, Omaha Public Schools has operated a closed enrolled site at the Henry Doorly Zoo. The current process is not easy because of the administrative burden it places on the staff. At this time, Nutrition Services plans to continue to operate a closed site at the zoo for the 2020 Summer. We will know within the next several months whether the site will be open.

Below are the advantages of using area eligibility information for closed sites:

- 1. Staff will not need to spend the time attempting to receive completed income eligibility forms from the participants. The time will be spent on enhancing and adding enrichment activities to the program.*
- 2. Counting the participants as they receive the meal will be much more simple and streamlined. No longer will staff need to insure that the majority of the students who participate are classified as free or reduced.*
- 3. Staff will spend quality time interacting with the students during the meal instead of checking each student off of the roster.*

Omaha Public Schools is supportive of the Waiver option for closed sites.

The Purpose Driven Advocacy Center in Omaha provided the following statement: *The waiver to qualify us to operate the SFSP without having to collect income eligibility forms significantly reduced administrative burden on staff.*

This allowed us to allocate more time and resources to other areas of program compliance and outreach. Furthermore we were able to serve more children in our high-need community of North Omaha.

Boys and Girls Clubs of Omaha, a private non-profit organization in Omaha, provided the statement attached to this waiver request.

Lighthouse, a private non-profit organization in Lincoln, provided the following statement:

Lighthouse is an after-school program for middle and high school students. Requiring our youth's families to fill out Income Eligibility forms will negatively impact our center. Our youth walk, ride the bus and their bikes to Lighthouse, parents rarely provide transportation and so the parent/s would not be able to fill out forms at Lighthouse. Sending the form home with our youth and requiring them to return the forms with the accurate information is very unreliable. The Food Program Coordinator would need to spend more hours looking over forms making sure they are filled out correctly. Phone numbers often change so if there are issues with the form, in many cases we would not be able to get a hold of family members. This in turn will have a lower participation rate. Snack and dinner at Lighthouse are the only nutritious meal most of our youth get.

Additionally, the bottom-line cost to NDE would increase; our online claiming system allows use of area eligibility data to qualify closed enrolled sites. Not being able to implement this flexibility would result in a necessary rebuild of our online application system, which would be costly and could take funds away from other important areas of our operation and support of sponsors.

The goals of the waiver NDE is requesting include: reduced administrative burden to sponsors; reduced administrative costs for sponsors, which could result in more reimbursement money being reinvested into high-quality summer meals for participants; and efficient use of state administrative funds to offer more sponsor support, technical assistance and training opportunities that may not be possible if funds are needed for staff time spent revising training and application instructions for sponsors as well as application approval procedures for NDE staff.

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

NDE is requesting the flexibility and policy rescinded in policy memo SFSP 01-2019 be reinstated for implementation with all sponsors of closed enrolled sites in eligible areas where 50% or more of children residing in the area are eligible for Free and Reduced price meals through the National School Lunch Program. Implementing this flexibility would waive the requirement for individual income eligibility determinations for participants of a closed enrolled SFSP site. Individual regulations that would be waived include:

Section 13(a)(1)(A)(i)(III) of the NSLA an area— (aa) for which the program food service site documents the eligibility of enrolled children through the collection of income eligibility statements from the families of enrolled children or other means; and (bb) at least 50 percent of the children enrolled at the program food service site meet the income standards for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

42 USC 1761(a)(1)(A)(i)(III) an area— (aa) for which the program food service site documents the eligibility of enrolled children through the collection of income eligibility statements from the families of enrolled children or other means; and (bb) at least 50 percent of the children enrolled at the program food service site meet the income standards for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

7 CFR 225.2 closed enrolled site means a site which is open to enrolled children, as opposed to the community at large, and in which at least 50 percent of the enrolled children at the site are eligible for free or reduced price school meals under the National School Lunch Program and School Breakfast Program, as determined by approval of applications in accordance with 225.15(f).

CFR 225.15(f) Application for free Program meals—(1) Purpose of application form. The application is used to determine the eligibility of children attending camps and the eligibility of sites that are not open sites as defined in paragraph (a) of the definition of “areas in which poor economic conditions exist”, in §225.2. In these situations, parents or guardians of children enrolled in camps or these other sites must be given application forms to provide information described in paragraph (f)(2) or (f)(3) of this section, as applicable. Applications are not necessary if other information sources are available and can be used to determine eligibility of individual children in camps or sites.

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

Alternative Procedures:

Area eligibility will be extended to closed enrolled sites, which could be determined eligible to operate summer meals if located in an area where at least 50% of the children are eligible for Free or Reduced price meals under the National School Lunch Program. This procedure would waive the requirement that individual eligibility determinations be made using income eligibility applications or by obtaining shared school eligibility data. Area eligibility will extend to closed enrolled sites operating in high-need areas where census or school free/reduce price meal participation indicates at least half of participants are eligible for free or reduced price meals.

Anticipated impact:

This waiver will decrease administrative burden for sponsors and NDE, allow for efficient and effective oversight of program operations for sponsors and NDE, and allow sponsor organizations to efficiently and effectively meet the needs of their communities and participating children. NDE will continue to emphasize program integrity by utilizing a thorough application

approval process, provision of detailed technical assistance and training for sponsors, and by conducting detailed site visits and administrative reviews. Additionally, implementation of this waiver would be cost neutral for NDE, as it would not require costly changes to the online application system.

Nebraska's closed enrolled SFSP sites have small geographic/neighborhood impact making their reach consistent with the area eligibility data that is already available. If this waiver is not implemented, the following impacts on program operations could occur:

- Increased costs to State agency to update software systems to comply with regulation changes. Updates to software will affect application, claims, and compliance modules.
- Significant impact on the NDE staff time and increased cost to update training and technical assistance materials, re-train sponsors and site staff, and monitor compliance related to rescinded flexibilities and policies.
- Increased administrative costs for sponsors related to collecting and processing income applications for closed enrolled sites located in areas already determined eligible based on school or census data (area eligibility data).
- Increased risk for administrative error in determining eligibility through income applications.
- Loss of closed-enrolled sites serving summer meals due to increased administrative burden to process individual household income applications
- Potential loss of children benefiting from closed enrolled sites and meals served at them because their parents/guardians choose to not complete eligibility applications.

Combined, these consequences could have a significant impact on food insecurity and hardship stemming from additional administrative burden causing fewer sponsors and sites to participate in the SFSP and provide meals to Nebraska's low-income children when school is not in session.

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]:

NDE has not needed to address regulatory barriers, as these flexibilities were in place. The flexibilities and policies rescinded by the USDA FNS Policy Memo SFSP 01-2019 Summer Food Service Program memoranda Rescission will increase administrative burden and create barriers to program access and effective program operation. To address and minimize barriers to operating the SFSP, NDE is submitting this waiver request.

8. 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 not any anticipated challenges with wavier implementation. Internal processes and procedures are already set up and in place to ensure program integrity if the waiver request is approved.

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]:

There is no anticipated impact on Federal administrative costs for NDE oversight associated with the approval and implementation of this waiver.

10. Anticipated waiver implementation date and time period:

This waiver will be implemented immediately upon approval for FY2020 and remain in effect for a period of one year.

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 restored 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, technical assistance and training provided to sponsors. NDE will report to FNS issues of noncompliance as they pertain to the requested flexibility.

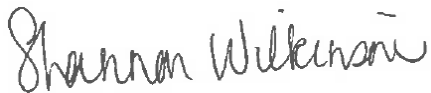
13. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(I)(1)(A)(ii) of the NSLA]:

The following public notice is located at:

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

NDE Nutrition Services submitted on January 12, 2020 three statewide waiver requests to the USDA Mountain Plain Regional Office (MPRO) for the Summer Food Service Program flexibilities 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.

14. Signature and title of requesting official:



Name: Shannon Wilkinson

Title: Assistant Administrator Nutrition Service Office

Requesting official's email address for transmission of response:

shannon.wilkinson@nebraska.gov

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:**



BOYS & GIRLS CLUBS
OF THE MIDLANDS

OMAHA • CARTER LAKE • COUNCIL BLUFFS

December 31, 2019

Kayte Partch, MS, RD, LMNT
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Youth Development Center
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Dear Ms. Partch:

The Boys & Girls Clubs of the Midlands (BGCM) currently operates two closed enrolled sites of the SFSP Program. Our two sites feed 400+ members per day during the summer. This is a much needed and critical service to our members in those communities.

Utilizing the flexibility to allow our site to operate as a closed enrolled site ensures the safety of the children we serve, while minimizing the administrative burden BGCM staff experience. Additional staff time would be required to collect and determine the benefit category for all participants and would be significant and could reduce the amount of SFSP funds we are able to commit toward providing high-quality and nutritious meals.

Past experience has shown us that additionally, some participants' parents will not return income eligibility forms and this would jeopardize their children's participation in our summer programming and receipt of meals we provide when school is out.

Approval of the area eligibility waiver request would significantly help BGCM continue to serve needy and hungry children across Omaha most efficiently and helps ensure that program funds are committed to providing the most meals to the most children we can.

Thank you for your help and support.

Sincerely,

Thomas R. Kunkel
Chief Professional Officer

