



# Georgia Dept of Early Care and Learning

BRIGHT FROM THE START

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**Brian P. Kemp**  
Governor

**Amy M. Jacobs**  
Commissioner

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## CHILD NUTRITION PROGRAM STATE WAIVER REQUEST EXTENSION OF NATIONWIDE WAIVER - UNANTICIPATED SCHOOL CLOSURE

**May 21, 2020**

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(1) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(1), provides authority for USDA to waive requirements for State agencies or eligible service providers under certain circumstances. When requesting the waiver of statutory or regulatory requirements for the Child Nutrition Programs (CNP), including the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the National School Lunch Program (NSLP), the Fresh Fruit and Vegetable Program (FFVP), the Special Milk Program (SMP), and the School Breakfast Program (SBP), State agencies and eligible service providers should use this template. State agencies and eligible service providers should consult with their FNS Regional Offices when developing waiver requests to ensure a well-reasoned, thorough request is submitted. State agencies and eligible service providers are encouraged to submit complete waiver requests at least 60 calendar days prior to the anticipated implementation date. Requests submitted less than 60 calendar days prior to the anticipated implementation should be accompanied by an explanation of extenuating circumstances.

For more information on requests for waiving Program requirements, refer to SP 15-2018, CACFP 12-2018, SFSP 05-2018, *Child Nutrition Program Waiver Request Guidance and Protocol- Revised*, Month 24, 2018.

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

Georgia Department of Early Care and Learning (DECAL) Contacts:

- Tamika Boone, Director, Nutrition Services  
Phone: (404) 656-6292; Email: [Tamika.Boone@decalf.ga.gov](mailto:Tamika.Boone@decalf.ga.gov)
- Sonja Adams, Senior Manager, Nutrition Services  
Phone: (404) 463-2566; Email: [Sonja.Adams@decalf.ga.gov](mailto:Sonja.Adams@decalf.ga.gov)

- Kate Alexander, Policy Administrator, Nutrition Services  
Phone: (404) 651-8193; Email: [Kate.Alexander@decals.ga.gov](mailto:Kate.Alexander@decals.ga.gov)

**2. Region:** Southeast

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

The request to extend the implementation of the existing nationwide waiver in effect, applies to all Summer Food Service Program (SFSP) organizations (including school sites) approved to operate the SFSP and who are 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(1)(2)(A)(iii) and 12(1)(2)(A)(iv) of the NSLA]:**

**Background**

Pursuant to the Families First Coronavirus Response Act (the Act) (P.L. 116-127), and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) established *COVID-19: Child Nutrition Response #21*, a nationwide waiver to extend unanticipated school closure operations through June 30, 2020 (*i.e.*, emergency feeding) and to support access to nutritious meals while minimizing potential exposure to the novel coronavirus (COVID-19). This waiver applied to the National School Lunch Program Seamless Summer Option (SSO) and the Summer Food Service Program (SFSP).

Section 2202(a) of the Act permitted the Secretary of Agriculture to establish a waiver for all States for the purposes of providing meals under the Child Nutrition Programs, with appropriate safety measures, as determined by the Secretary. On behalf of participating SFSP organizations in Georgia, the Georgia Department of Early Care Learning (GA DECAL) opted-in to this waiver on April 27, 2020.

Under the Richard B. Russell National School Lunch Act at 42 U.S.C. 1761(c)(1), and Program regulations at 7 CFR 225.6(b)(1), 7 CFR 225.6(b)(4), 225.6(c)(1), 225.6(c)(2)(i)(G), 225.6(c)(3)(i)(B), 225.6(e)(1)(iii), 225.7(a), 225.7(d)(1)(i), 225.14(a), and 225.15(d)(1), limit SSO and SFSP operations during unanticipated school closures to the period from October through April of each school year. Unanticipated school closure operations reduce administrative burden by exempting Program operators from certain requirements, such as pre-operational training requirements. Across Georgia, participating organizations have vigorously used this flexibility to provide meals to children during the COVID-19 outbreak.

By way of *COVID-19: Child Nutrition Response #21*, FNS recognized that State agencies and local Program operators needed additional support and flexibility in order to make a smooth transition to traditional summer operations this year. Thus, FNS waived, for all State agencies, the October through April time limitation for unanticipated school closures in the above referenced statutory and regulatory requirements for the remainder of the school year

2019-2020. The intent of the waiver was to allow State agencies to permit Program operators to operate under current unanticipated school closure requirements (regardless of their current closure status) through June 30, 2020. The waiver indicates that although traditional SFSP must begin July 1<sup>st</sup>, such waiver did not prevent State agencies and Program operators from implementing the traditional SFSP requirements *prior to* June 30, 2020.

Additionally, regulations at 7 CFR 225.6(b)(1) require SFSP sponsors to submit written applications for Program participants by June 15<sup>th</sup> but the nationwide waiver waived that requirement as well. Such waiver provided that written applications were still required for State agency approval for participation in SFSP however, such submission was not required by June 15<sup>th</sup>. Thus, there is no Federal application deadline for summer 2020.

### **State agency Request**

GA DECAL requests that it be allowed to permit Program operators (including school sites) to operate under current unanticipated school closure requirements through **August 31, 2020**.

Notably, this request is applicable to *both* school and non-school sites as the State agency previously received waiver approval of 7 CFR 225.6(d)(1)(iv). Such regulation provides that when evaluating a proposed food service site [for approval], the State agency shall ensure that if it is a site proposed to operate during an unanticipated school closure, it is a non-school site.

As noted above, FNS has currently provided that traditional SFSP operations may begin on or before July 1, 2020. Once the decision is made to ‘transition’ to traditional SFSP operations and under the existing waiver, SFSP sponsors would be required to undergo the State’s full application process and submit a complete application to operate. However, several sponsors have expressed concerns about their willingness to continue serving meals beyond June 30, 2020 if they will be required to undergo the traditional application process. Sponsors have explained that it poses a significant administrative burden to meet all application requirements, while simultaneously serving emergency meals and dealing with all other COVID-19 related issues, just to be able to serve meals for potentially another 2-4 weeks this summer. It also imposes a significant burden on the State agency and its resources to process such approvals within such a short timeframe and while maintaining Program integrity.

### **5. Specific Program requirements to be waived (include statutory and regulatory citations). [Section 12(1)(2)(A)(i) of the NSLA]:**

As stated in response number (4) above:

- **7 CFR 225.6(b)(1)**
- **7 CFR 225.6(b)(4)**
- **7 CFR 225.6(c)(1)**
- **7 CFR 225.6(c)(2)(i)(G)**
- **7 CFR 225.6(c)(3)(i)(B)**

- 7 CFR 225.6(e)(1)(iii)
- 7 CFR 225.7(a)
- 7 CFR 225.7(d)(1)(i)
- 7 CFR 225.14(a)
- 7 CFR 225.15(d)(1)

**Please Note:** 7 CFR 225.6(d)(1)(iv) – *Previously approved by FNS on February 12, 2020 and is effective through April 30, 2022.*

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

Georgia DECAL does not anticipate any required Program operational changes, including those affecting technology, State systems, or monitoring. If the waiver extension is not approved, Georgia DECAL will continue its normal process of ensuring that traditional SFSP requirements are met on or before July 1, 2020.

**7. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(1)(2)(A)(ii) of the NSLA]:**

There are no regulatory barriers at the State level to address.

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

Georgia DECAL does not anticipate any challenges with this waiver implementation. Rather, existing operational challenges would likely and profoundly improve.

**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(1)(1)(A)(iii) of the NSLA]:**

There are no anticipated increases to the overall cost of the Program to the Federal Government.

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

**Requested Waiver Timeframe:**

- Waiver Request Start Date: On or before July 1, 2020
- Waiver Request End Date: August 31, 2020

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

Georgia DECAL will still encourage sponsors to continue monitoring activities off-site when possible (e.g., desk audits). Georgia DECAL will also follow the review procedures in accordance with 7 CFR 225. Georgia DECAL will provide training and technical assistance to sponsors in need of additional guidance in operating approved SFSP sites (school and non-school) during this public health emergency related to the coronavirus.

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

Not later than 1 year after the date of such approval or as prescribed by USDA, Georgia DECAL will provide a report to FNS that will include the following:

- A summary of the use of this waiver by the State agency and local Program operators, and
- A description of whether and how this waiver resulted in improved services to Program participants.

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

A copy of the public notice can be found on Georgia DECAL's website at:

<http://www.decal.ga.gov/Nutrition/SFSPWaiverRequests.aspx>

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



Tamika Boone, Director, Nutrition Services

- Requesting official's email address for transmission of response:  
[Tamika.Boone@decal.ga.gov](mailto:Tamika.Boone@decal.ga.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:**

- Date Received: \_\_\_\_\_
- Check this box to confirm that the State agency has provided public notice in accordance with Section 12(1)(1)(A)(ii) of the NSLA**
- **Regional Office Analysis and Recommendations:**

- Recommend Approval
- Recommend Denial

**Explanation:**