



# Georgia Dept of Early Care and Learning

BRIGHT FROM THE START

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**Brian P. Kemp**  
Governor

**Amy M. Jacobs**  
Commissioner

## **CHILD NUTRITION PROGRAM STATE WAIVER REQUEST:**

### **WAIVE THE ACTIVITY REQUIREMENT IN THE AT-RISK AFTERSCHOOL COMPONENT OF THE CHILD AND ADULT CARE FOOD PROGRAM August 7, 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)

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

The request to waive the regulatory requirements applies to:

Atlanta Public Schools  
256 Clifton Road, SE  
Atlanta, GA 30317  
Email: [Akilah.Issa@atlanta.k12.ga.us](mailto:Akilah.Issa@atlanta.k12.ga.us)  
-Serves 47 sites throughout Metro-Atlanta

This organization is 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]:**

This request is regarding 7 CFR 226.17a(b)(1)(ii) and (iii), which requires eligible schools and at-risk afterschool care centers to serve afterschool meals and snacks in a structured and supervised environment, with an educational or enrichment activity.

The Atlanta Public Schools (APS) At-Risk Afterschool Program has successfully followed the above guidelines since 2014. However, as the FY 2021 school year begins, these requirements conflict with the social distancing guidelines established by Center for Disease Control to protect the health and safety students and the overall population due to the spread of COVID - 19.

Beginning August 24, 2020, APS plans to move forward with providing virtual instruction to all enrolled students through October 2020. This means many Georgia students will not be in attendance to receive regularly scheduled afterschool activities in a structured and supervised environment. Children who rely on school and afterschool meals will now receive those meals at home. It is critical that APS continues providing nutritious and balanced meals to students without further interruption and to prevent food insecurity in communities.

Worth mentioning, in a policy memorandum dated March 20, 2020, USDA granted a nationwide waiver for reasons similar to those mentioned above. The waiver offered flexibility in At-Risk Afterschool program operations during the COVID-19 pandemic. Specifically, USDA explained:

“Pursuant to the COVID–19 Child Nutrition Response Act (the Act) (H.R. 6201, Title II), and based on the exceptional circumstances of this public health emergency, the Food and Nutrition Service (FNS) is establishing a nationwide waiver to support access to nutritious meals and snacks while minimizing potential exposure to the novel coronavirus (COVID–

19). This waiver applies to afterschool snacks in the National School Lunch Program and at-risk afterschool meals and snacks in the Child and Adult Care Food Program.

Section 2202(a) of the Act permits 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.

Under sections 17(r)(2)(B) and 17A(a)(2)(C) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1766(r)(2)(B) and 42 U.S.C. 1766a(a)(2)(C), respectively, afterschool meals and snacks must be served in a school or program with an educational or enrichment purpose. FNS regulations further require at 7 CFR 210.10(o)(1)(ii) and 7 CFR 226.17a(b)(1)(ii) and (iii), eligible schools and at-risk afterschool care centers to serve afterschool meals and snacks in a structured and supervised environment, with an educational or enrichment activity. However, FNS recognizes that in this public health emergency, waiving these requirements is vital to ensure appropriate safety measures for the purpose of providing meals and meal supplements.

Therefore, FNS waives, for all States, the above referenced statutory and regulatory requirements. This waiver is effective immediately, and remains in effect through June 30, 2020, or upon expiration of the federally declared public health emergency, whichever is earlier.” [USDA Policy Memorandum, COVID-19: Child Nutrition Response #3 - *Nationwide Waiver of the Activity Requirement in Afterschool Care Child Nutrition Programs*, March 20, 2020].

Due to the fact that as of today, the COVID-19 pandemic remains a public health emergency, Georgia DECAL is submitting this request to reactivate the March 20, 2020 At-Risk Afterschool activity requirement waiver and to allow APS to use this waiver through May 31, 2021.

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

- **7 CFR 226.17a(b)(1)(ii) and (iii)**, To be eligible for reimbursement, an afterschool care program must have organized, regularly scheduled activities (i.e., in a structured and supervised environment) [and] include education or enrichment activities.

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

APS and 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, APS and Georgia DECAL will continue its normal process of ensuring all CACFP requirements are met.

**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:**

APS and 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]:**

Georgia DECAL does not expect the waiver to increase the overall cost to the Program.

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

**Requested Waiver Timeframe:**

- Waiver Request Start Date: August 1, 2020
- Waiver Request End Date: May 30, 2021

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

Georgia DECAL will also follow the review procedures in accordance with 7 CFR 226. Georgia DECAL will provide training and technical assistance to sponsors in need of additional guidance in operating approved CACFP facilities 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, with input from APS, 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.dec.al.ga.gov/CACFP/WaiverRequests.aspx>

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



Tamika Boone, Director, Nutrition Services

- Requesting official's email address for transmission of response: [Tamika.Boone@dec.al.ga.gov](mailto:Tamika.Boone@dec.al.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(l)(1)(A)(ii) of the NSLA**
- **Regional Office Analysis and Recommendations:**
  - Recommend Approval
  - Recommend Denial

**Explanation:**