# SP 15-2018, CACFP 12-2018, SFSP 05-2018

# **CHILD NUTRITION PROGRAM**

# **STATE WAIVER REQUEST**

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(l) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(l), 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 (CNPs), 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*, May 24, 2018.

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

Virginia Department of Education, Office of School Nutrition Programs

Denise Branscome, Policy and Research Specialist

Barbara.Branscome@doe.virginia.gov

1. **Region:** Mid-Atlantic Regional Office
2. **Eligible service providers participating in waiver and affirmation that they are in good standing:**

The waiver request is for Northampton County Public School. The school division received a Federal Program Administrative Review in 2016-2017 with this cycle review scheduled for December 2019. There is no outstanding corrective action pending.

1. **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 Northampton County School Board is requesting a waiver to implement the Community Eligibility Provision (CEP) for the current school year (2019-2020). The LEA explained that at the time of the application process Northampton County had an approved budget for 2019-2020 and did not have adequate time to research the impact of implementing CEP. As of April 1, 2019, Northampton had an ISP of 58.5%. Analysis of the finances required a projected revenue shortfall to offset division-wide CEP. Additional funds needed to be requested from the School Board. In addition, there were numerous operational challenges that required research prior to implementation to ensure a smooth transition. Discussions with the county resulted in local funding to subsidize the anticipated costs that could exceed federal reimbursement in the provision of free meals to all students.

Northampton County is requesting to implement CEP on February 1, 2020 and will provide access to meals at no cost for all the schools in Northampton County in an effort to ensure students are adequately nourished and successful in school.

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

7 CFR 245.9 (f)(4)(i) indicates that “*A local educational agency, group of schools, or school that intends to elect the community eligibility provision for the following year for one or more schools must submit to the State agency documentation demonstrating the LEA, group of schools, or school meets the identified student percentage, as specified under paragraph (f)(3)(i) of this section. Such documentation must be submitted no later than June 30 and must include, at a minimum, the counts of identified students and enrolled students as of April 1 of the school year prior to CEP implementation.*

Northampton County is requesting a waiver to implement CEP on February 1, 2020.

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

The Virginia Department of Education (VDOE) will approve the application, and validate the ISP following internal policies and procedures if the waiver is approved. Validation will have to be completed prior to the SFA implementing CEP. Implementing CEP mid-year would have to be thoroughly tested in the VDOE’s web-based claiming system and if unable to accommodate a mid-year implementation, would require a software modification. Any software modification would have to undergo agency procurement and allocation of resources.

1. **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]:**

The VDOE provides detailed technical assistance to SFAs participating in CEP. Outreach begins in April and continues until the application is due at the end of June. Prior to this request, VDOE did not identify any barriers to complete the application by the required date in June.

1. **Anticipated challenges State or eligible service providers may face with the waiver implementation:**
* If approved, VDOE will have to test the web-based application and claiming system to see if the application can be implemented mid-year and that the claiming percentages will start in February.
* In order to implement CEP, Northampton must produce accurate supporting documentation of the number of identified students and student enrollment as of April 1, 2019. It has been more than eight months since the original numbers were reported. Without accurate supporting documentation, the validated ISP for April 1, 2019 will likely be lower than originally reported, which will lead to less federal reimbursement and potential negative fiscal impact if CEP is implemented in February 2020.
* In addition, the state agency provided detailed analysis of federal reimbursement using CEP than showed an increase in reimbursement over traditional claiming using extremely conservative estimates of participation increases. None of the calculation for CEP implementation using the April 1, 2019 ISP data submitted by the LEA showed any potential loss of revenue or shortfall of revenue vs. expenses.
* Another concern is the discrepancy between the LEA’s request for additional local funds to implement the program and the operating balance reported by Northampton to VDOE in their annual financial report. The final financial report for SY 2018-2019 shows an operating balance of 3.66 months which is above the three months of expenditures allowed by 7 CFR 210.14(a)(b). Northampton reported an excess of funds and is also requesting support from local funds before starting the program. A detailed financial analysis of the school nutrition program funds is needed to gain a better understanding of the current balance, anticipated cost of CEP and process for submitting monthly financials.
* In addition, Northampton indicated that they would be filing monthly financial reports for SY 2019-2020. As of December 3, 2019, Northampton did not have any reports on file for SY 2019-2020. Tracking monthly financial reports would be necessary to successful financial viability.
1. **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]:**

Implementation of the waiver may increase the cost of the program to the federal government by providing additional federal reimbursements Northampton County.

1. **Anticipated waiver implementation date and time period:**

The anticipated waiver date and time period: As soon as the waiver is approved, VDOE will approve the application and make all necessary changes by February 28, 2020. Claims submitted for the month of February will be submitted using CEP claiming percentages.

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

Northampton County will receive an FPAR during the current school year. The CEP process will be reviewed as part of the administrative review.

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

The application and validation data will be submitted to FNS to ensure that the program was implemented when approved. After the first claim is submitted and paid, VDOE will submit a copy of the claim and validation that the claim was paid properly using the required claiming percentages.

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

VDOE will post the request on their [website](http://www.doe.virginia.gov/support/nutrition/statistics/index.shtml).

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

**Name:** Dr. Sandra Curwood **Title:** Director, Office of School Nutrition

**Signature**

Requesting official’s email address for transmission of response: sandra.curwood@vdoe.virginia.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:**