



COLORADO
Department of Education

Office of School Nutrition
1580 Logan, Suite 760
Denver, CO 80203

Marcellus Goodwin
Mountain Plains Regional Office
1244 Speer Blvd Suite 903
Denver, CO 80204-3581

April 15, 2020

1. State agency staff contact information:

Erica Boyd, Senior Consultant
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Suite 760
720-693-3232
Boyd_E@cde.state.co.us

2. Region: USDA Mountain Plains Region

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

Any Colorado Department of Education (CDE) School Nutrition Unit approved Fresh Fruit and Vegetable Program (FFVP) sponsor in good standing, operating during an unanticipated school closure due to the COVID-19 outbreak. Eligible service providers also include eligible organizations who apply as defined under 7 CFR 225.14(b) to operate SFSP in order to ensure children can receive meals in their community during the COVID-19 outbreak.

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]:

Challenge:

"Social-distancing" is integral to the control of the COVID-19. The FFVP requires that students are present to receive fresh fruits and vegetables, which is not consistent with nationwide waivers allowing meals to be consumed in a non-congregate setting, and that allow for parent/guardian pickup of meals intended for students. Requiring students to be present increases the potential risk of exposure to COVID-19 and is a barrier in continuing to offer the FFVP during unanticipated school closures due to COVID-19. In addition, sponsors operating emergency feeding sites have serious funding deficiencies due to COVID-19 and need the flexibility to use the FFVP funds they have been granted. Without flexible use of these funds, financially strapped sponsors, anticipate having to return unused funds, in a time when these funds are needed to feed children.

Goal: Allow parents and/or guardians to pick up FFVP produce with appropriate safety measures in place that minimizes potential exposure to COVID-19.

Expected Outcomes: Ensure participants have access to fresh fruits and vegetables when needed during an emergency and that sponsors have the flexibility to use the FFVP funds they have been granted to feed children.





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

CDE requests a waiver of regulations at Section 19(b) of the National School Lunch Act (NSLA) [42 U.S.C. 1769a] that requires schools participating in the FFVP to make fresh fruits and vegetables available to students.

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

If approved, CDE School Nutrition will provide technical assistance to sponsors on processes and procedures in operating the FFVP during emergency feeding to maintain accountability and program integrity. Colorado has opted in to the Nationwide Waiver to Allow Parents and Guardians to Pick Up Meals for Children. Colorado sponsors must describe in their site application how they are ensuring that meals are distributed only to parents or guardians of eligible children, and that duplicate meals are not distributed. Adding FFVP to this process would be seamless for the sponsors and CDE would require the same information and tracking within the application. There are no impacts on technology, State systems, or monitoring.

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 currently no State level regulatory barriers related to this specific issue.

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

CDE does not anticipate that the establishment of this statewide waiver will pose any additional challenges at the state or sponsor level. Alternatively, CDE anticipates this waiver will reduce challenges faced by schools and communities that are experiencing unanticipated school closures because of COVID-19, ensure access to fresh fruits and vegetables and ensure sponsors have the flexibility to use the FFVP funds they have been granted to feed children.

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]:

The establishment of this statewide waiver will not increase the overall cost of the Program to the Federal Government since the FFVP grant allocations are complete for SY 19-20 and these programs





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would be operating in situations where normal USDA Child Nutrition programs (NSLP/SFSP) are closed due to COVID-19. There are no additional staff costs to implement this waiver.

10. Anticipated waiver implementation date and time period:

The anticipated waiver implementation start date is April 13, 2020 and is to remain in effect through the end of School Year 2019-2020.

11. Proposed monitoring and review procedures:

CDE School Nutrition will approve individual SFA requests to implement the waiver via the Emergency Feeding SFSP application approval process. CDE School Nutrition will provide technical assistance and monitoring to ensure the waiver is correctly implemented.

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

No later than July 15, 2021, CDE will report to FNS the number of sponsors that used this waiver including the number of unanticipated operating days and total FFVP funds used. CDE will report any additional information as required by FNS.

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 NSLA]:

<http://www.cde.state.co.us/nutrition/nutriemergencyfeeding>

14. Signature and title of requesting official:

Name: Erica Boyd

Title: Senior Consultant

Requesting official's email address for transmission of response: Boyd_E@cde.state.co.us





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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:

