



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

December 17, 2019

1. **State agency submitting waiver request and responsible State agency staff contact information:**
Colorado Department of Education (CDE) School Nutrition Unit.
Ashley Moen, moen_a@cde.state.co.us, 303-866-6653.
2. **Region:** Mountain Plains
3. **Eligible service providers participating in waiver and affirmation that they are in good standing:**
This waiver request is applicable state-wide for all approved sponsor organizations 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 CDE School Nutrition Unit is requesting a state-wide waiver for Summer Food Service Program (SFSP) flexibilities and policies that were rescinded by the USDA Food and Nutrition Services (FNS) on October 11, 2018 through SFSP 01-2019 *Summer Food Service Program Memoranda Rescission*.

The impact and challenges faced as a result of the rescinded flexibilities and policies to the CDE School Nutrition Unit and Colorado sponsors are detailed below:

Meal Time Restrictions

Seventeen years ago FNS granted state agencies the authority to waive meal time restrictions in an effort to simplify program management. The waiver of meal time restrictions allows sponsors to serve meals at times that align with program activities and meet the needs of children and families. If meal time restrictions are implemented, the number of nutritious meals served to children in Colorado will significantly decrease.

The City and County of Denver Office of Children's Affairs (OCA) sponsors 34 sites. The OCA works with many community organizations to ensure SFSP meals are provided during site programming and are timed to meet public transportation schedules to maximize the number of nutritious meals served to hungry children. According to OCA, restricting meal service times would have the following impact:





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- OCA's sites are predominantly open sites at recreation centers and libraries, where children and youth participate in a combination of structured and non-structured activities. Because times when children and youth arrive at open sites ebbs and flows, site staff find they serve more children when they have longer serving windows. Last summer, 20 sites had longer serving windows than would be allowed if the restrictions were in place. Mealtime restrictions would prevent hundreds of children from receiving a healthy meal. Families rely on these meals. They also rely on public transportation to get to meal sites, and therefore it is essential to have longer meal times to accommodate families.
- Last summer (2019), only twelve OCA sites did not have a three-hour-gap between meal times. To serve meals that meet needs of the children and youth in the community, sites need flexibility to accommodate a variety of factors, such as space to serve meals and class and activity schedules. In addition, OCA collaborates closely with Denver Public Schools and Food Bank of the Rockies to ensure that meal times do not conflict. At times, OCA staff adjust meal times to accommodate other sponsors and some of these adjustments resulted in gaps which were less than three hours.
- Recreation centers with pools often find that youth arrive shortly before pools open at 1pm and will eat while waiting in line for the pool to open. However, pools have a required break from 3:00-3:15pm where everyone must come out of the pool. Children will come out of the pool to get a snack, but the rescission of this waiver will prevent pools from serving both a lunch and snack to children, due to there not being a three-hour-gap between meal start times.
- OCA also provides meals at an evening weekend program called Night Moves. This program provides teens pro-social and positive activities in communities that experience high rates of violence and crime. Night Moves operates Fridays and Saturdays from 6 to 10pm. These sites serve supper from 6 to 9pm to accommodate youth and scheduled activities. Night Moves takes youth to Colorado Rockies baseball games, local amusement parks, movies and other activities. Allowing a longer serving window provides staff the opportunity to provide healthy meals while keeping youth engaged in activities that prevent them from being exposed to violence in their communities.

Greeley 6, a school food authority (SFA), sponsors 38 sites and states meal time restrictions will have the following impact: a period of 3+ hours is too long to wait to eat (especially when physical activity is an integral part of many summer programs) for school age children attending a summer enrichment





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or academic recovery class. Additionally, many school course recovery programs are offered for 4 hours; which would limit service to only one meal. Overall, the impact of this could result in summer feeding sites offering 50% fewer meals to children in need.

Food Bank of the Rockies, a sponsor of 70 sites, stated that “restricted meal times would confine our open sites and their ability to accommodate the community with more than one meal option.” In PY 2019, 37% of their sites offered both breakfast and lunch with start times less than 4 hours apart.

Equal Heart, a sponsor of 27 sites, is able to feed the most vulnerable children during summer months by operating a series of “pop-up” sites that create a mini-summer program located at parks and apartments in low-income communities. According to Equal Heart, “It is our goal to provide two meals to a child each day, but a three hour window between meal times will cause us to drop breakfast service for almost all sites due to the burden of providing staff to create a four hour program. For programs like ours that seeks to bring food into the community, rather than just support existing child care operations, we must raise extensive funds to cover site operational staff. This meal time restriction will result in children receiving half the food they would receive without the restriction.”

Hunger Free Colorado, a partner organization leading efforts to connect families and individuals to food resources so no Coloradan goes hungry, supports this waiver. Hunger Free Colorado’s letter of support is attached.

The goal of this waiver is to reinstate the rescinded flexibilities and policies to allow for efficient and cost effective program management and reduce administrative burden for sponsors and the CDE School Nutrition Unit.

Approval of this waiver will allow the CDE School Nutrition Unit and Colorado sponsors to continue implementing streamlined measures for effective program management and operation. In addition, if approved, the CDE School Nutrition Unit will not be required to spend additional funds and staff time to update technology systems and revise state-wide training and review procedures.

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





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The CDE School Nutrition Unit is requesting all flexibilities and policies rescinded in SFSP 01-2019 be reinstated. The individual regulations to be waived are outlined below:

Current regulation to be waived: 7CFR 225.16(c)(1) and (2) *"Time restrictions for meal service. (1) Three hours must elapse between the beginning of one meal service, including snacks, and the beginning of another, except that 4 hours must elapse between the service of a lunch and supper when no snack is served between lunch and supper. The service of supper shall begin no later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances. These waivers shall be granted only when the State agency and the sponsor ensure that special arrangements shall be made to monitor these sites. In no case may the service of supper extend beyond 8 p.m. The time restrictions in this paragraph shall not apply to residential camps. (2) The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals."*

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

Description of Alternative Procedures:

To simplify program management, accommodate operational requirements and meet needs of participating children, time limits will not be placed on the duration of a meal service or the amount of time that must elapse between the beginning of one meal service and the beginning of the next. Sponsors must continue to establish meal times for each site and provide this information to the CDE School Nutrition Unit to ensure effective oversight. The CDE School Nutrition Unit will have discretion to determine the length of supper meal service and if meals served outside of the approved meal service may still be claimed for reimbursement in the case of an unanticipated event.

Anticipated impact on Program operations, including technology, State systems, and monitoring:

This waiver will significantly decrease administrative burden, allow for efficient and effective oversight of program operations, and allow sponsor organizations to meet the needs of their communities and participating children. The CDE School Nutrition Unit will continue to ensure program integrity through a thorough application approval process, technical assistance visits, administrative reviews, and training. In addition, no change will need to be made to current technology systems as a result of this waiver. Approval of this waiver will be cost neutral for CDE School Nutrition.





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If this waiver is not implemented, the following impact on program operations will likely occur:

- Increased costs to the CDE School Nutrition Unit to update software systems to comply with regulation changes. Updates to software will affect application, claims, and compliance modules.
- Significant impact on the CDE School Nutrition Unit staff time and effort and increased cost to update training and technical assistance materials, re-train sponsor and site staff, and monitor compliance with rescinded flexibilities and policies.
- A decrease in the number of meals offered at sites due to meal time restrictions. The restrictions hinder sites serving meals at times that align with site activities and needs of participating children. This will lead to a loss of reimbursement revenue.
- Increased operational labor costs for sponsors due to the amount of time that must be placed between meals.
- These combined impacts will result in a significant decrease in access to the program, a decrease in meals served to children and ultimately an increase in childhood hunger in Colorado.

7. Description of any steps the State has taken to address regulatory barriers at the State level.

[Section 12(I)(2)(A)(ii) of the NSLA]: The flexibilities and policies rescinded by the USDA FNS on October 11, 2018 through 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 these barriers, the CDE School Nutrition Unit is submitting this waiver. The CDE School Nutrition Unit also utilizes lean principles to implement streamlined measures and continuous process improvement for the program.

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

implementation: There are no anticipated challenges with waiver implementation. Internal processes and procedures are already in place to ensure program integrity.

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 State Agency oversight with implementation of this waiver.





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10. **Anticipated waiver implementation date and time period:** This waiver will be implemented immediately upon approval for program year 2020 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 the CDE School Nutrition Unit as outlined in 7 CFR 225.7 (2)(ii)(B). Standard review procedures will continue to be followed; if noncompliance is identified, the CDE School Nutrition Unit will implement a corrective action plan and conduct follow-up reviews, as needed.

12. **Proposed reporting requirements (include type of data and due date(s) to FNS):** The CDE School Nutrition Unit will provide FNS with required reports, including review findings and technical assistance provided and survey results showing impact on improved services and streamlined administrative requirements. This information will be available annually.

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 public notice is located at:
<http://www.cde.state.co.us/nutrition/nutrisummer>

14.. Signature and title of requesting official:

Name: Ashley Moen, MS, RD, SNS

Title: Summer Meal Programs Supervisor

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

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(I)(1)(A)(ii) of the NSLA

- **Regional Office Analysis and Recommendations:**





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