March 25, 2020

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

Subject of Waiver Request:
Waiver to Suspend Area Eligibility Requirements

1. State agency submitting waiver request and responsible State agency staff contact information:
   Kansas State Department of Education, Child Nutrition & Wellness
   900 SW Jackson Street, Suite 251
   Topeka, KS  66612
   Cheryl S Johnson, Director
csjohnson@ksde.org
   785-224-8479 (cell)

2. Region: Mountain Plains (MPRO)

3. Eligible service providers participating in waiver and affirmation that they are in good standing:
   Any Kansas approved School Food Authority (SFA) or community organization approved to operate in the Summer Food Service Program (SFSP) or the Seamless Summer Option (SSO), in good standing and operating during the mandated closure of all Kansas schools through the end of the 2019-2020 school year due to 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(l)(2)(A)(iii) and 12(l)(2)(A)(iv) of the NSLA]:
   The Kansas State Department of Education (KSDE) seeks to temporarily suspend area eligibility requirements for SFAs and community organizations operating the Seamless Summer Option (SSO) or Summer Food Service Program (SFSP) through June 30, 2020 and/or upon expiration of the federally and/or state declared public health emergency, whichever is earlier.
KSDE has worked diligently to qualify SFAs and community non-profits by school F/R data, census data and use of HUD Housing sites. However, there are some communities in Kansas which provide meals to a significant population of high-need children and families, but which do not qualify using current area eligibility criteria. On March 17, 2020 Kansas Governor Laura Kelly mandated all schools to close for the rest of the 2019-2020 school year in response to the nationwide COVID-19 outbreak. These closures have left children and students across Kansas who depend on the meals and snacks provided by their schools with limited or no available alternative food sources. While schools in Kansas have quickly responded to the needs of their students and are currently providing meals through the available flexibilities for operation during unanticipated school closures and the removal of the congregate feeding requirement, many are struggling to find ways to feed the high need students in their non-area eligible schools.

Additionally, to remain in compliance with guidance from the CDC and the KS Governor, approving additional sites will alleviate concerns about overcrowded meal sites locations and support the practice of social distancing. Meal sites are more crowded than initially expected due to many Kansans being laid off from their jobs in the last two weeks. SFSP Sponsors are needing to add additional sites to be able to meet the needs of the children in their communities.

As of November 19, 2019, overall as a state, Kansas's Free and Reduced Population was at nearly 46%. This number is expected to grow exponentially as over 20,000 unemployment claims were filed within the last two weeks and is expected to continue to grow as Kansas Public health officials in Doniphan, Sedgwick and Atchison counties issued stay-in-place orders March 24, 2020. The first counties to issue orders were Wyandotte, Johnson and Leavenworth—all populous counties and in the metropolitan Kansas City area and the most cases of the virus. Other counties with cases who have issued the order are Douglas, Miami, Morris and Franklin. Shawnee County, home to Topeka the state capital, is the latest county to issue a stay-at-home order that will take effect Thursday, March 26. This brings the number of counties under stay at home order to 12 counties which will significantly expand the impact of COVID-19 to nearly half of the Kansan population of approximately 1.5 million people. Gov. Laura Kelly is on record stating Kansans ought to expect more counties will be added to this list as the virus continues to spread across Kansas and which will have a significant impact on unemployment claims, F/R eligibility, and/or financial burdens across the entire state.

Numerous large, medium, small businesses have started to furlough their employees due to these “stay at home” orders and one has furloughed 10,000 plus employees in Wichita, Kansas this week. Goodyear Tire and Rubber Company recently announced they are suspending operations, including the plant in Topeka. Currently, at least 98 people in Kansas have tested positive for the novel coronavirus, three have died, and these numbers are expected to grow; creating financial hardships across all of Kansas.

Kansas leads the world in the success of each student.
If this waiver is granted, it would allow all schools or community organizations to ensure that they can serve the highest need students in their towns and communities who might have limited access to healthful meals during this closure. This would also support families who may be struggling to provide meals to their children when many have lost employment or are underemployed due to required closures of restaurants, bars, gyms, and other community spaces as well as layoffs at major businesses in Kansas.

In addition, this waiver will decrease the unnecessary burden of Kansas schools being inundated with new USDA meal applications, having to process, verify them, and allow the schools staff to focus on providing safe and accessible meals to their respective communities. By suspending eligibility requirements during these extenuating circumstances, it would alleviate a significant financial and administrative burden on schools and community organizations operating in non-area eligible locations and schools without a geographic attendance area. Kansas school districts, by order of the Governor, are paying personnel for two full weeks whether they work or not. In most school districts food stuffs were procured and already in storage for the remaining months of the school year. For good stewardship of federal resources, by extending area eligibility and allowing needed meal sites to serve the increased needs of Kansas families, the reimbursement will assist in paying the salaries and for the food already in stock. Without expected reimbursement, school districts will have to transfer state funds to maintain a required positive balance in the food service fund which will defer funds from the education of Kansas children. As of date, school districts which we have surveyed are serving 25% to 50% of the meals served on a regularly scheduled school day, so even with the SSO/SFSP reimbursement school districts will have a financial deficit for this school year.

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

   Those requirements found under 42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(e)(15), to serve meals through the National School Lunch Program, School Breakfast Program, and Summer Food Service Program in a congregate setting:

   Those requirements found under 7 CFR 226.19(b)(6)(iii), to serve meals through the Child and Adult Care Food Program in a congregate setting.

   Those requirements found under 7 CFR 225.6(c)(2)(G): “For open sites and restricted open sites, documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist.”
6. **Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:**
If approved, KSDE will provide technical assistance to sponsors on the process and procedures for creating accurate site applications and capturing meal service information through the information and claiming portal—KNCLAIM. Additionally, KSDE will provide training and assistance to support sponsors as they are planning and preparing for meal service, and provide guidance on collecting accurate meal counts, and how to submit claim under either the SSO or SFSP. There are no significant 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(l)(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:**
The KSDE does not anticipate that the establishment of this statewide waiver will pose any challenges at the State or sponsor level since school food service operating under the waiver would essentially operate the same as a normal operating day. Alternatively, we anticipate this statewide waiver will support non-eligible schools and organizations that are currently trying to find methods and resources to help them continue to serve their communities during these unanticipated closures. Low-income children attending non-eligible schools or living in non-eligible areas will benefit from increased access to meal service and schools can use already encumbered resources.

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(l)(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 these programs would be operating in situations where normal USDA Child Nutrition Programs are closed due to COVID-19.

   Additionally, as families across Kansas are practicing quarantine practices and social distancing, participation through these meal sites will likely be limited to the highest need families and overall participation will be lower than through the National School Lunch Program. The loss of meals served under NSLP, SBP, and other programs would be offset by the increase of meals served under SSO and SFSP.

   There would be no additional State Agency staff costs to implement this waiver and/or would there would not be a need for additional State Administrative Expense Funds to implement this waiver.
10. **Anticipated waiver implementation date and time period:**
The anticipated statewide implementation start date is upon approval from USDA and is to remain in effect through June 30, 2020 and/or upon expiration of the federally and/or state declared public health emergency, whichever is earlier.

11. **Proposed monitoring and review procedures:**
If a State-wide waiver is granted, State Agency staff will no longer have to work with SFAs and community organizations to determine eligibility and eligible sites as they approve the waivers to serve non-congregate meals. from each SFA and community organization, to implement this waiver. The State Agency will be able to better monitor implementation of this waiver and allow the State Agency to more effectively provide Technical Assistance to Kansas schools during this public health emergency.

12. **Proposed reporting requirements (include type of data and due date(s) to FNS):**
No later than August 31, 2020, the KSDE will report to USDA the number of sponsors that used this waiver including the number of unanticipated operating days and meals claimed.

13. **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]:**
Notice is posted at [www.kn-eat.org](http://www.kn-eat.org), School Nutrition Programs, What’s New.

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

   ![Signature]

   Name: Cheryl Johnson, MS, RD, LD  
   Title: Director, Child Nutrition & Wellness, KSDE  
   Requesting official’s email address for transmission of response: csjohnson@ksde.org

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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:**

☐ 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:**

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