

STATE WAIVER REQUEST TEMPLATE

CHILD NUTRITION PROGRAM

State agencies are encouraged to use this form to submit waiver requests to the Food and Nutrition Service (FNS) Regional Offices. States should consult with FNS when developing waiver requests to ensure a well-reasoned, thorough request is submitted. States are encouraged to submit waiver requests at least 60 calendar days prior to the anticipated implementation date. Requests submitted less than 60 calendar days prior to implementation should be accompanied by an explanation of extenuating circumstances.

For more information on requests for waiving Program requirements, refer to SP 27-2017, CACFP 12-2017, SFSP 08-2017, *Child Nutrition Program Waiver Request Guidance and Protocol*, April 26, 2017.

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

State agency: California Department of Education (CDE) Nutrition Services Division

State agency staff: Jeannine Cook, Staff Services Manager I, Summer Meals Unit

Phone: 916-322-2146

Email: jcook@cde.ca.gov

2. Region:

Western Region

3. Program operator(s) participating in waiver and affirmation that they are in good standing:

The CDE asks that this waiver request apply to the Seamless Summer Option (SSO) and Summer Food Service Program (SFSP) Operators affected by poor air quality due to wildfires or smog. Program operators will be required to request approval from the CDE on a case-by-case basis if the air quality in the area of their feeding site becomes a health hazard. In these cases the CDE requests authority to grant approval to the affected program operators to allow children to take their meals off site for consumption rather than requiring congregate feeding.

4. Description of the challenge the State agency is seeking to solve:

Due to the recent devastating wildfires in California, the issue of air quality has become an increasing concern. The poor air quality affected not only the counties declared state and federal disasters, but also the surrounding counties. The poor air quality increases the risk of health issues to children and program operator staff. This waiver will allow program operators in affected areas to serve meals to students and allow the students to consume the meals off site in a less hazardous environment and additionally minimize the time program operator staff must remain at the meal service sites and prolong their exposure to toxins.

5. Specific Program requirements to be waived (include regulatory citations):

For SFSP, the regulatory citation is Title 7, Code of Federal Regulations, Section 225.6(e)(15):

Maintain children on site while meals are consumed.

For SSO, the regulatory citation is FNS Instruction 786-8 published June 6, 1988:

The authorizing legislation and program regulations clearly intend that meals reimbursed under the programs are to be served and consumed as part of the school program, on school or school-related premises. Therefore, school meals given to children to take home are not reimbursable.

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

The CDE will provide detailed information and instructions to the SFSP and SSO Operators on requesting waiver approval. The affected SFSP and SSO Operators will be required to apply for the waiver for each air quality incident. The CDE will evaluate the air quality waiver requests according to the following criteria:

- Program operator is in good standing
- Program operator has no significant administrative review (AR) findings from the prior year
- Site is located in an area experiencing air quality advisories of “unhealthy for sensitive groups,” “unhealthy,” “very unhealthy,” or “hazardous” with an air quality index value concentration range of at least 101 or higher, or at least 71 parts per billion or higher, as reported by the National Weather Service
- Program operators will be required to serve meals in sealed containers, such as sealed sack lunch bags, that contain all required meal components
- Only one meal per child will be provided to each child present at the site
- Program operator must submit and retain National Weather Service air quality advisory documentation

The CDE will retain a centralized list of all approved waivers. Since these incidents will be unpredictable, the CDE will work with affected sponsors to quickly determine the waiver approvals or denials.

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

No regulatory barriers at the state level.

8. Anticipated challenges with waiver implementation:

No anticipated challenges.

9. Anticipated impact on Federal administrative costs and assurance that any increases in Federal administrative costs will be paid from non-Federal funds:

No impact on federal administrative costs.

10. Anticipated implementation date and time period:

Implementation date: March 1, 2019—program operators will need to request a waiver each year.

Time period: Since air quality will be an ongoing issue in California with no foreseeable solution the time period CDE requests authority to waive congregate feeding requirements is a ten-year period, March 1, 2019–September 30, 2028.

11. Proposed monitoring and review procedures:

The CDE will track and provide oversight to those sponsors which are approved to serve the SFSP and SSO non-congregate meal service due to air quality issues. The CDE will ensure that sponsors approved for the air quality waiver and the duration of service correspond appropriately to nearby fires or air pollution-affected areas established by the National Weather Service.

Approved sponsors will be required to retain air quality documentation published by the National Weather Service to be reviewed during the AR.

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

The CDE will send a report to FNS by October 31 of each year reporting the name of each program operator approved for an air quality waiver, the number of sites included in the waiver, all criteria used to determine program operator's waiver approval, the dates the sites served noncongregate feeding, and the number of meals served on each date the waiver was in effect for each sponsor.

Link to the public notice informing the public about the proposed waiver:

SFSP waiver request to be posted to the CDE SFSP Information web page on the Announcements tab at <https://www.cde.ca.gov/ls/nu/sf/sfspinfo.asp>.

SSO waiver request to be posted to the CDE SSO web page at <https://www.cde.ca.gov/ls/nu/sn/ssfo.asp>.

Signature and title of requesting official:

Title: Staff Services Manager I

Requesting official's email address for transmission of response: jcook@cde.ca.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 your knowledge, experience and work with the State.

- **Date request was received at Regional Office:**
- **Regional Office recommendations:**