## 2020 Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) State Agency Waiver Request

**Meal Service Timing Flexibility**

New Mexico Public Education Department (NMPED) National School Lunch Program

## State agency submitting waiver request and responsible State agency staff contact information:

NMPED

Michael Chavez, Director 120 S. Federal Place Room 207

Santa Fe, NM 87505

505-827-7592

1. **Region:** Southwest (SWRO)

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

Statewide waiver request for all participating SSO/SFSP Sponsoring Organizations in good standing. This waiver would also apply to sponsoring organizations operating SSO/SFSP during unanticipated school closures.

## 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(I)(2)(A)(III) and 12(I)(2)(A)(iv) of the NSLA]:

NMPED is requesting a statewide waiver for the SFSP flexibility that was rescinded by FNS on October 11, 2018 as part of SFSP 01-2019. The flexibility is included within SFSP SP 10-2017, SFSP 06-2017 , *Meal Service Requirements in the Summer Meals Programs, with Questions and Answers* - *Revised* December 5, 2016. The waiver of program regulations at 7 CFR 225.16(c)(1) for meal time as originally published in SFSP 11- 2011, *Waiver of Meal Time Restrictions and Unitized Meal Requirements in the Summer Food Service Program,* October 31, 2011. Regulations require that three hours must elapse between meal service, except that four hours must elapse between lunch and supper if no snack is served. This policy waived these requirements, but maintained that sponsors must continue to establish meal service times.

Since many sites are located in rural areas, programming is a crucial element that drives participation at meal sites. Sponsors adapt to the needs of communities they serve by establishing meal service times in coordination with space, activities, group size and sites such as parks to better serve their communities, and increase access to healthy meals. By allowing flexibility, sponsors will have greater ability to meet local needs and work with their own programmatic needs.

1. **Specific Program requirements to be waived (include regulatory citations). [Section 12(I)(2)(A)(i) of the NSLA]:** 7 CFR 225.16 (c)(1-2) Meal service requirements and 7 CFR 210.10 (1)(1) Meal requirements for lunches and requirements for afterschool snacks.

7 CFR 225.16 (c) *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.

7 CFR 210.10 (I) *Requirements for lunch periods-(1) Timing.* Schools must offer lunches meeting the requirements of this section during the period the school has designated as the lunch period. Schools must offer lunches between 10 a.m. and 2 p.m. Schools may request an exemption from these times from the State agency. With State agency approval, schools may serve lunches to children under age 5 over two service periods. Schools may divide quantities and food items offered each time any way they wish.

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

If approval is granted for the State Agency Meal Service Timing Waiver, there would be no impact on sponsors in completing their annually required application process. This process would be completed in the same manner as done in the past several years. The SA has already developed a tracker through its online CNP website that allows for select state staff to reflect waiver approvals at both the sponsor and site level. Therefore, if approval is granted, the SA can reflect approval of this waiver via its online CNP database. Granting this approval through the CNP database also unlocks a feature in the CNP system, which allows for the sponsor to exceed the maximum meal length rules, as well as space meals closer than stated in the regulations (i.e. < 3 hours between breakfast and lunch). Without this approval designated in the system, sponsors do not have access to break the meal service timing rules currently set in the CNP system.

At the sponsor level, approval of this waiver would allow for sponsors to operate sites in the same capacity as they have in years past. Per the sponsoring organizations that utilized Meal Service Timing Flexibility in PY 2019, had the waiver not been available, significant reductions in meal participation would have been noted, as it would not have been possible to fully align meal service times with the various programs/activities offered at the site. Additionally, Site-Level SFSP Staff would have had more down time had the meal services not been able to be spaced closer to one another and offered for a longer duration.

## 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]:

Prior to PY 2019, the SA had not addressed any regulatory barriers as these flexibilities were in place under USDA authority.

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

The SA does not anticipate that this waiver will present any challenges to the agency or to any SFSP sponsor organizations.

## 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]:

This waiver will not increase the overall cost of the Program to the Federal Government. The waiver will continue to assist the SFSP sponsors and ODE CNP to ensure access to meal service sites that better align with individual site programming in the SFSP, and has been in place for years.

# Anticipated waiver implementation date and time period:

To be effective for both SSO and SFSP with the start of unanticipated school closures relating to the COVID-19 outbreak and to remain in effect for SFSP for a period of two years

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

The State agency will continue to follow its standard SFSP review procedures. Any sponsors found to have noncompliance issues during the 2020 SFSP, as related to any SFSP requirement, including this waiver, will be required to develop an individualized corrective action plan and follow-up reviews will be scheduled as needed.

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

The State agency will report to FNS any compliance issues noted with this flexibility during the approvals and reviews by October 1 each year.

1. **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]:**

The public notice is located on the CNP Home Page at: https://webnew.ped.state.nm.us/student-success-wellness/

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

**Michael A. Chavez**

Michael Chavez

Director

NMPED-Student Success and Wellness Bureau

505-827-7592

**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:

**t.JX**

**Check this box to confirm that theState agency has provided public notice in accordancewithSection12(1)(1)(A)(ii)of the NSLA**

* **Regional Office Analysis and Recommendations:**

SWRO has reviewed and analyzed the waiver and recommends approval.