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PUBLIC EDUCATION DEPARTMENT  
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MICHELLE LUJAN GRISHAM  
GOVERNOR

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Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(l) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(l), provides authority for USDA to waive requirements for State agencies or eligible service providers under certain circumstances. When requesting the waiver of statutory or regulatory requirements for the Child Nutrition Programs (CNP), including the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the National School Lunch Program (NSLP), the Fresh Fruit and Vegetable Program (FFVP), the Special Milk Program (SMP), and the School Breakfast Program (SBP), State agencies and eligible service providers should use this template. State agencies and eligible service providers should consult with their FNS Regional Offices when developing waiver requests to ensure a well-reasoned, thorough request is submitted. State agencies and eligible service providers are encouraged to submit complete waiver requests at least 60 calendar days prior to the anticipated implementation date. Requests submitted less than 60 calendar days prior to the anticipated implementation should be accompanied by an explanation of extenuating circumstances.

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

New Mexico Public Education Department, Child Nutrition Programs  
Michael Chavez, Child Nutrition Director  
[MichaelA.Chavez@state.nm.us](mailto:MichaelA.Chavez@state.nm.us)  
505-699-4562

**2. Region:**

Southwest

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

School Food Authorities participating in the National School Lunch Program, for School Year 23-24. These School Food Authorities are in good standing, adhering to the program's regulations and guidelines, and diligently working to provide nutritious meals to students in a safe and supportive educational environment

**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]:**

*Description of Challenge:* The current regulation under Section 11(a)(1)(F)(x)(I) of the NSLA, 42 U.S.C. 1759a, and FNS regulations at 7 CFR 245.9(f)(4)(i); mandates that School Food Authorities (SFAs) intending to elect the Community Eligibility Provision (CEP) for the following school year must notify the State agency and submit Individualized Student Percentage (ISP) documentation no later than June 30 of the current school year. This requirement presents a challenge as it imposes a strict timeline that SFAs must adhere to, potentially leading to administrative difficulties and complications.

*Goal of the Waiver:* NMPED is seeking a waiver from the aforementioned regulation to improve services under the National School Lunch Program (NSLP). The goal of this waiver is to provide SFAs that were previously excluded from participating in CEP under the previous rule of a 40% Identified Student Percentage with flexibility in the timeline for notifying the State agency and submitting ISP documentation who now meet the new program rules of 25%. By doing so, NMPED aims to streamline administrative processes, reduce the burden on SFAs, and increase program participation for CEP.

*Expected Outcomes if the Waiver is Granted:* If the waiver is granted, several expected outcomes can be anticipated:

- **Improved Administrative Efficiency:**  
SFAs will have more time and flexibility to prepare and submit the necessary documentation for CEP enrollment. This will lead to improved administrative efficiency, reducing the risk of errors and delays in the process.
- **Increased Participation:** With reduced administrative burdens, more SFAs may choose to participate in CEP. This could lead to an increase in the number of eligible students receiving free meals, ultimately improving food access and nutrition for students.
- **Enhanced Program Accessibility:** The waiver will make it easier for SFAs, especially those with complex administrative challenges, to participate in CEP. This ensures that the benefits of the NSLP are accessible to a wider range of schools and students.
- **Compliance with Program Intent:** While providing flexibility, the waiver will still maintain the program's integrity and intent, ensuring that SFAs continue to adhere to CEP requirements while having more time to prepare.

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

The requirement that LEAs that intend to elect CEP in the following school year must notify the State agency and submit ISP documentation not later than June 30 of the current school year under Section 11(a)(1)(F)(x)(I) of the NSLA, 42 U.S.C. 1759a, and FNS regulations at 7 CFR 245.9(f)(4)(i);

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

NMPED anticipates the proposed waiver will primarily affect the timeline for notification and documentation submission while maintaining the regular procedures and monitoring mechanisms of the program intact.

Under the requested waiver, School Food Authorities (SFAs) will continue to follow the standard procedures outlined in the National School Lunch Program (NSLP) guidelines for participation in the Community Eligibility Provision (CEP). All documentation requirements and compliance standards will remain unchanged.

The key adjustment brought about by this waiver pertains solely to the timeline within which SFAs must notify NMPED and the new minimum requirement for program participation of 25%. Instead of adhering to the strict June 30 deadline of the current school year, SFAs will be granted flexibility in this aspect.

The impact on Program operations, including technology, will be minimal as existing procedures and monitoring mechanisms will remain consistent. NMPED will continue to oversee and monitor SFAs' compliance with CEP requirements, ensuring program integrity and accountability. No alterations to technology infrastructure or monitoring processes are anticipated.

**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]:**

Federal regulations and guidelines provided by the USDA offer comprehensive and standardized frameworks to ensure the efficient and effective administration of NSLP/CEP. NMPED recognizes the importance of maintaining consistency with federal requirements to guarantee program integrity, equity, and accountability. As such, our focus has been on diligent implementation and adherence to these federal regulations and guidelines, which have been carefully designed to address potential barriers and challenges that may arise in the administration of the NSLP/CEP. By aligning our practices closely with federal directives, we continuously aim to provide a seamless and compliant experience for our School Food Authorities (SFAs) and, ultimately, the students benefiting from the program. NSLP has not pursued state-specific actions to address regulatory barriers regarding the minimum threshold of a 40% ISP, nor the June 30 deadline to elect CEP, as we remain committed to collaborating with federal authorities and stakeholders to ensure that the NSLP and related programs continue to operate effectively, efficiently, and in accordance with the highest standards of program management.

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

NMPED recognizes that School Food Authorities (SFAs) operating in New Mexico regularly encounter challenges due to time management issues that affect their ability to meet existing deadlines. It is important to note that the USDA's clear and concise guidelines and regulations play a crucial role in ensuring the fair and consistent administration of CEP and related programs throughout New Mexico. In New Mexico, we value open communication and collaboration with our SFAs. We have a history of working closely with them to address challenges and find suitable solutions. SFAs have the option to engage directly with the NMPED leadership, including the NMPED secretary, to discuss specific circumstances and request exceptions as applicable. This approach has proven invaluable in assisting SFAs when dealing with said challenges, however, the clear and concise guidance from the USDA has facilitated NMPED personnel in providing equitable oversight and technical assistance, ensuring consistent support for program guidelines. A streamlined process, which avoids the need to revisit numerous exceptions, particularly regarding deadlines, enables effective time management for NMPED staff. This, in turn, allows NMPED to allocate more resources and attention to other essential oversight program responsibilities, including Administrative Reviews, claim reimbursements, and reporting to the USDA.

**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]:**

We anticipate that the requested waiver will not result in an increase in the overall cost of the Program to the USDA. Our analysis of the waiver's impact suggests that the proposed adjustments to the timeline for notification and documentation submission will not incur additional program expenses beyond the existing budgetary allocation.

**10. Anticipated waiver implementation date and time period:**

Within 60 days of approval waiver for SY23-24

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

Under the requested waiver, School Food Authorities (SFAs) will continue to follow the standard procedures for participation in the Community Eligibility Provision (CEP), with the exception of the deadline to elect. Processes, documentation requirements, and monitoring will remain unchanged.

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

NMPED's reporting process under the Community Eligibility Provision (CEP) waiver will leverage the existing CEP reporting mechanisms that are currently in place for submissions to the USDA. This approach will ensure consistency in reporting procedures and streamline the process for all stakeholders involved. By utilizing the established CEP reporting framework, we aim to maintain efficiency and accuracy in our reporting practices while adhering to the USDA's guidelines and requirements.

**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]:**

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

*Michael Chavez*

Michael Chavez, Director Child Nutrition Programs