# CHILD NUTRITION PROGRAM STATE WAIVER REQUEST:

# Massachusetts Waiver Request to USDA to Waive Non-Congregate Meal Service Due to Unanticipated School Closures in SY 2023-24

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

# MA Department of Elementary and Secondary Education (MA DESE)

# Office for Food and Nutrition Programs (FNP)

# 75 Pleasant St., Malden, MA, 02148

# Robert M. Leshin, Director [Robert.M.Leshin@mass.gov](mailto:Robert.M.Leshin@mass.gov) 781-338-6477

1. **Region:** Northeast (NERO)
2. **Eligible service providers participating in waiver and affirmation that they are in good standing:**

These waivers would allow non-congregate meal service in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), the NSLP Seamless Summer Option (SSO), and, the at-risk afterschool component of the Child and Adult Care Food Program (CACFP) when congregate meal service operations are limited due to natural disasters, unscheduled major building repairs, court orders relating to school safety or other issues, labor-management disputes, or similar unanticipated causes.

1. **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]:**

These waivers, issued under Section 12(l) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1760(l), will allow school food authorities (SFAs), and sponsors to quickly respond to unanticipated school closures. With approval of these waivers, MA DESE FNP can approve non-congregate meals, with or without virtual learning, for up to 10 consecutive operating days for a SFA or sponsor without prior notice to FNS; increasing access to meals.

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

MA DESE FNP is seeking the approval of USDA FNS to waive the following requirements:

SFSP and SSO Unanticipated School Closures (Schools buildings are closed **with no virtual learning**). The waivers in this section apply to SFSP and SSO during unanticipated school closures, when school buildings are closed and virtual classes are not offered. These waivers would be effective October 1, 2023, through April 30, 2024.

* Non-Congregate Meal Service during Unanticipated School Closures [42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(i)(15)]
* Parent and Guardian Meal Pick-Up: Parent and Guardian Meal Pick-Up during Unanticipated School Closures [42 U.S.C. 1761(f)(3) and 7 CFR 210.10(a), 220.2 (Breakfast), 220.8(a), 225.2 (Meals), and 225.9(d)(7)]
* Meal Service Times for Unanticipated School Closures [7 CFR 225.16(c)(1), (2), and (3)]
* Service of Meals at School Sites for Unanticipated School Closures [42 U.S.C. 1761(c)(1) and 7 CFR 225.6(h)(1)(iv)]

National School Lunch Program and School Breakfast Program (School buildings are closed **with virtual learning)**. The waivers in this section are intended to provide needed flexibility to support SFAs in continuing to offer nutritious meals when school buildings are closed, and virtual classes are being offered. These waivers would be effective through June 30, 2024.

* Non-Congregate Meal Service [NSLA, 42 U.S.C. 1753(b)(1)(A) and Child Nutrition Act, 42 U.S.C. 1773(b)(1)(A)]
* Meal Service Times [7 CFR 210.10(l) and 220.8(l)]
* Parent/Guardian Meal Pickup [7 CFR 210.10(a), 220.2 (Breakfast), and 220.8(a)]
* Offer Versus Serve [42 U.S.C. 1758(a)(3) and 7 CFR 210.10(e)]

Child and Adult Care Food Program: The waivers in this section apply to the at-risk afterschool component of CACFP only. These waivers are intended to provide needed flexibility to support at-risk afterschool centers in continuing to offer nutritious meals during unanticipated school closures. These waivers are effective through June 30, 2024.

* Non-Congregate Meal Service [NSLA, 42 U.S.C. 1766(f)(1)(A) and 7 CFR 226.19(b)(6)(iii)]
* Meal Service Times [7 CFR 226.17a(m)]
* Parent/Guardian Meal Pickup [NSLA, 42 U.S.C. 1766(f)(1)(A) and 7 CFR 226.2 (Meals)]
* Enrichment Activity [NSLA, 42 U.S.C. 1766(r)(2)(B) and 7 CFR 226.17a(b)(1)(ii) and (iii)]

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

MA DESE FNP will communicate with program sponsors about the availability of this waiver via training and e-blast. Sponsors will be told that in the event of implementing a non-congregate feeding site, as approved by the DESE, they may do so via their application packet. Sponsors will be told that to utilize this flexibility they will be required to document, in their application packet, meal counts for meals served in a non-congregate fashion, and supporting documents must be collected and maintained on site. Sponsors will be required to maintain on file a summary document of their participation in non-congregate meal service operations.

Administrative Reviews will ask sponsors if they elected to serve meals in a non-congregate setting. The review process for all CNPs will include questions for site operators about their election of the congregate meal service waiver due to program operations.

No alternative procedures will be needed for State technology or systems.

1. **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]:**

MA DESE FNP does not anticipate any regulatory barriers with the implementation of this waiver.

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

MA DESE FNP does not anticipate any challenges with the implementation of this waiver.

1. **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]:**

This waiver request will not increase cost of the Program to the Federal Government. Program administration and operations will remain committed to oversight and compliance. Program reimbursement will continue to be based on total number of meals served to eligible participants by the sponsor.

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

The anticipated implementation for the waiver is effective upon approval and it will remain in effect through:

* The SFSP and SSO waivers would be effective October 1, 2023, through April 30, 2024.
* The NSLP, SBP and CACFP waivers would be effective through June 30, 2024.

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

MA DESE FNP program staff will ask the that sponsors to elect to utilize non-congregate feeding document in their application packet. Review staff will discuss operational procedures with program sponsors during a reviews of the CNPs. Sites that opt into this wavier will be selected as part of the review procedures and questions about waiver election will be added to the onsite portion of the reviews.

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

MA DESE FNP will provide a report identifying identify which sponsors, if any, elected this waiver flexibility as well as the total number of meals served under this flexibility. This information will be collected at the SFA level and will be reported to USDA within 90 days of the end of the approved time period (December 31, 2024).

1. **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]:**

<https://www.doe.mass.edu/cnp/newsletter.html>

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

Title: Director, Office for Food and Nutrition Programs

Requesting official’s email address for transmission of response: robert.m.leshin@mass.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 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:**