# CHILD NUTRITION PROGRAM STATE WAIVER REQUEST:

# Massachusetts (MA) Waiver Request to USDA for Mid-Year Election of the Community Eligibility Provision (CEP) 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 mid-year implementation of the CEP for Local Education Agencies (LEAs) that participate in the National School Lunch Program (NSLP) and School Breakfast Program (SBP).

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 LEAs to submit Identified Student Percentage (ISP) data to the SA for validation and approval to participate in the CEP. With approval of these waivers, MA DESE FNP can approve mid-year implementation in an effect to maximize federal reimbursement as MA continues to offer universal school meals at no cost to students.

1. **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); and
* The requirement that LEAs must calculate the CEP ISP using data as of April 1 of the prior school year under Sections 11(a)(1)(F)(iii)(I)(bb) and (a)(1)(F)(iv)(I)(bb) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1759a, and FNS regulations at 7 CFR 245.9(f)(3)(i), (f)(4)(i), (f)(4)(v)(A), and (f)(4)(viii).

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 to elect implementation, electronically via the DESE Security Portal, no later than ***December 1, 2023***. The intent of this waiver is to bring on newly eligible LEAs and schools, and not to allow elections throughout the school year.

LEAs will not be allowed to elect CEP prior to approval of the State agency’s waiver. Waivers will not be retroactive to the start of the school year. The first month LEAs and schools can elect CEP or claim under CEP using the new minimum ISP will be the date they elected implementation, upon approval of this waiver. LEAs will only be able to claim under CEP once they meet all requirements outlined in 245.9(f)(3), including offering meals at no cost to all students during the month. In order to ensure compliance, their NSLP application packet must reflect the minimum CEP requirements.

Submitted supporting documentation as required by the CEP validation process must be submitted from the LEA to the SA no later than ***December 15, 2023***. Upon completion of the CEP document validation process by the SA, the ISP claiming percentages will be reflected in the application packet of the LEA.

The approval of CEP implementation will be communicated to each LEA. Additionally upon approval, LEAs will be notified to use an alternate income form to collect any information that they need.

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 and ISPs 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:

* LEAs will be asked to elect CEP no later than ***December 1, 2023,*** using data as of ***April 1, 2023***. If data as of April 1, 2023 is not available, data from the current school year through ***November 30, 2023*** will be allowable for use for CEP validation
* LEAs will be asked to provide supporting documentation prior to the CEP data validation process no later than ***December 15, 2023***
* The waiver remains in effect until ***March 31, 2024***
* Upon completion of the CEP implementation process, LEAs will be able to continue operating the CEP through ***June 30, 2027***

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

MA DESE FNP program staff will ask the LEAs to elect CEP via their Compliance Packet within the DESE Security Portal. SA staff will provide training and ongoing technical assistance as they work to collect the appropriate supporting documentation from LEAs. Upon validation of the required CEP implementation data, the SA will communicate final ISPs and claiming percentages to LEAs.

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

MA DESE FNP will provide a report identifying which LEAs, elected this waiver flexibility as well as the total number of meals served under this flexibility. This information will be collected at the LEA level and will be reported to USDA.

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:**