

**CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST
COMMUNITY ELIGIBILITY DEADLINE
WAIVER REQUEST
FOR HAWAII CHILD NUTRITION PROGRAMS**

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 (CNPs), 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 before the anticipated implementation date. Requests submitted less than 60 calendar days before the anticipated implementation should be accompanied by an explanation of extenuating circumstances.

For more information on requests for waiving Program requirements, refer to [SP 15-2018, CACFP 12-2018, SFSP 05-2018](#), *Child Nutrition Program Waiver Request Guidance and Protocol* - Revised, May 24, 2018.

The subject of waiver request: CEP Deadline Waiver

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

Name of State agency: Hawaii Child Nutrition Programs
State agency staff contact: Sharlene Wong
Mailing address: 650 Iwilei Road, Suite 270, Honolulu, HI 96817
Telephone number: (808) 587-3600
Email address: Sharlene.Wong@k12.hi.us

2. Region: Western Region

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

Hawaii Child Nutrition Programs (HCNP) requests this waiver for the State Agency regarding Community Eligibility Deadline waiver for sponsors/SFAs, in good standing, during the SY 2021/22.

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]:

During the 2021/22 school year, meals were available for no charge to students in the state. Under Sections 11(a)(1)(F)(iii)(I)(bb) and (a)(1)(F)(v)(I) of the Richard B. Russell National School Lunch Act (NSLA), [42 USC 1759a](#), LEAs must calculate the CEP identified student percentage (ISP) using data as of April 1 of the prior school year. FNS regulations further require at [7 CFR 245.9\(f\)\(3\)\(i\)](#) and [245.9\(f\)\(4\)\(i\)](#) that LEAs intending to elect CEP or conduct a grace year in the following school year must submit to the state agency counts of identified and enrolled students as of April 1 of the prior school year.

To facilitate the safe provision of meals and reduce exposure to COVID-19, Hawaii is currently serving meals through the seamless summer meal program and receiving reimbursements at the summer food service program rates. However, due to staff shortages, additional time is necessary to safely gather accurately identified student and benefits data to meet upcoming CEP deadlines. By extending the CEP deadlines our SFAs will also have an opportunity to encourage more families to apply for SNAP benefits thus potentially impacting school's Identified Student Population. Which in turn could lead to more schools participating in the CEP provision for SY 2022-2023. This provision would lead to less interaction at the point of service and continue to facilitate social distancing recommendations in the upcoming transitional year.

Hawaii would like to allow LEAs the deadline to establish a new ISP from data drawn any time during the prior school year July 1, 2021 through May 12, 2022. The change in this deadline will affect the deadline for other aspects of CEP reporting. Hawaii requests the following deadlines be approved in line with the above deadline set for the establishment of the ISP rates.

Under Section 11(a)(1)(F)(x)(IV) of the NSLA, [42 USC 1759a](#), annually by May 1, LEAs must submit to the state agency lists of schools that:

- Have an ISP of at least 40 percent (eligible for CEP);
- Have an ISP greater than or equal to 30 percent but less than 40 percent (near-eligible for CEP); and
- Are currently in the fourth year of CEP participation with an ISP greater than or equal to 30 percent but less than 40 percent (eligible for grace year).

Regulations at [7 CFR 245.9\(f\)\(5\)](#) establish this deadline as April 15.

Hawaii requests this deadline of CEP data submission be extended for the reasons stated above and LEAs submit to the state agency the lists of schools that qualify for CEP no later than May 20, 2022.

Notification

Under Section 11(a)(1)(F)(x)(II) of the NSLA, [42 USC 1759a](#), state agencies must annually notify each LEA of district-wide eligibility for CEP in the following categories:

- LEAs with a district-wide ISP of at least 40 percent (eligible for CEP);
- LEAs with a district-wide ISP greater than or equal to 30 percent but less than 40 percent (near-eligible for CEP);
- LEAs currently participating in CEP; and
- LEAs in the fourth year of CEP participation with a district-wide ISP greater than or equal to 30 percent but less than 40 percent (eligible for grace year).

Regulations at [7 CFR 245.9\(f\)\(6\)](#) establish this deadline as April 15.

Hawaii requests the deadline of April 15 be extended since the deadline for the timeline of other CEP submissions is requesting an extension. The state agency must notify LEAs of CEP eligibility by June 17, 2022.

Publication

Section 11(a)(1)(F)(x)(III) of the NSLA, 42 USC 1759a, requires that, no later than May 1 of each school year, state agencies submit to the Secretary lists of LEAs and schools identified above in state agency and LEA notification requirements. Regulations at [7 CFR 245.9\(f\)\(7\)](#) also require that state agencies make the lists of LEAs and schools readily accessible on a state agency website by May 1 of each school year.

Hawaii would like to make the above-referenced lists publicly available on state agency websites by June 30, 2022. By June 30, 2022, Hawaii will submit the lists of CEP-eligible LEAs and schools to USDA by emailing a link to the lists posted on the state agency website; the email must be sent to sm.fn.cepnotification@usda.gov.

Election Date

Section 11(a)(1)(F)(x)(I) of the NSLA, [42 USC 1759a](#), requires that LEAs that intends to elect CEP in the following school year notify the state agency and submit ISP documentation by June 30. This requirement is codified in FNS regulations at [7 CFR 245.9\(f\)\(4\)\(i\)](#).

Hawaii would like to make the above-referenced documentation requirement not later than July 15, 2022, for LEAs that intends to elect CEP for SY 2022-2023 must submit the ISP documentation to the State Agency by July 15, 2022.

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

- HCNP is requesting a waiver of the established requirements for Community Eligibility deadlines of SFAs operating school meal programs found at 7CFR 210, 220, and 245. These citations are
 - ISP Data as of April 1 under Sections 11(a)(1)(F)(iii)(I)(bb), (a)(1)(F)(iv)(I)(bb), (a)(1)(F)(v)(I), and (a)(1)(F)(v)(II)(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), (f)(4)(viii), and (f)(4)(ix)
 - LEA Notification Requirements under Section 11(a)(1)(F)(x)(IV) of the NSLA, 42 U.S.C. 1759a and 7 CFR 245.9(f)(5)
 - State Agency Notification Requirements under Section 11(a)(1)(F)(x)(II) of the NSLA, 42 U.S.C. 1759a and 7 CFR 245.9(f)(6)
 - State Agency Publication Requirements under Section 11(a)(1)(F)(x)(III) of the NSLA, 42 U.S.C. 1759a and 7 CFR 245.9(f)(7)
 - June 30 election date 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. A detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:

To facilitate the safe provision of meals and reduce exposure to COVID-19, Hawaii is currently serving meals through the summer meal programs. Additional time is necessary during the transitional period back to normal for LEAs to collect their data. As such Hawaii requested the following date changes for the citations listed in #5 above and reasons listed in #4 above.

To establish the new ISP Hawaii would like to allow LEAs the deadline to establish a new ISP from data drawn any time during the prior school year July 1, 2021 through May 12, 2022.

To provide time for the LEAs to assess the ISP data, Hawaii requests this deadline be extended for the reasons stated above, and LEAs submit to the state agency the lists of schools that qualify for CEP no later than May 20, 2022.

To provide the State Agency with time to assess the ISP data submitted by the LEA, Hawaii requests the deadline of April 15 be extended for the reasons stated above and the state agency must notify LEAs of CEP eligibility by June 17, 2022.

Hawaii would like to make the CEP school lists publicly available on state agency websites by June 30, 2022. By June 30, 2022, Hawaii will submit the lists of CEP-eligible LEAs and schools to USDA by emailing a link to the lists posted on the state agency website; the email must be sent to sm.fn.cepnotification@usda.gov.

Section 11(a)(1)(F)(x)(I) of the NSLA, [42 USC 1759a](#), requires that LEAs that intends to elect CEP in the following school year notify the state agency and submit ISP documentation by June 30. This requirement is codified in FNS regulations at [7 CFR 245.9\(f\)\(4\)\(i\)](#).

Hawaii would like to extend the deadline requirement for election not later than July 15, 2022, for LEAs that intends to elect CEP for SY 2022-2023 must submit the ISP documentation to the State Agency by July 15, 2022.

The change in the deadlines should not have a negative impact on the programs as CEP designation will be completed before the start of the SY 2022- 2023.

7. 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]:

No regulatory barriers at the State level are related to this specific issue.

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

HCNP does not anticipate that the establishment of this statewide waiver will pose any challenges at the state or participant level. Alternatively, we anticipate this waiver will reduce the challenges of CEP by SFAs.

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(l)(1)(A)(iii) of the NSLA]:

The establishment of this waiver should not increase the overall cost of the program to the federal government.

10. Anticipated waiver implementation date and time period:

The anticipated waiver implementation start date is April 1, 2022, to remain in effect through July 30, 2022.

11. Proposed monitoring and review procedures:

HCNP will continue to oversee CEP provision usage and provide technical assistance to all SFAs. The SA will provide oversight to all SFSP and SSO sponsors/SFAs who continue to deal with pandemic-related challenges through the transition to normal.

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

HCNP will report the following data points once the health emergency has passed.

- A description of the impact the waiver had on administrative reviews
- The number of sponsors affected by this waiver
- A summary of findings associated with the waiver

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]:

Link to public notice: https://hcnp.hawaii.gov/wp-content/uploads/2022/03/CEP-Deadline-Waiver-COVID-19-3_21_22.pdf

14. Signature and title of requesting official :

- Signature:  _____
- Title: Sharlene Wong, Summer Food Service Program, Program Administrator, Hawaii Child Nutrition Programs.

Title: Administrative Review Flexibility Waiver Request
Requesting official's email address for the transmission of response:
Sharlene.Wong@k12.hi.us

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:

- Date Received: _____

- 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:**

- Recommend Approval
- Recommend Denial

Explanation: