

**CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST
NATIONAL SCHOOL LUNCH PROGRAM & CHILD AND ADULT CARE
PROGRAMS, SCHOOL FOOD SERVICE PROGRAMS MEAL PATTERN
AND MILK VARIETY FLEXIBILITY AT ALL SCHOOL
BUILDINGS/FACILITIES ARE CLOSED AND VIRTUAL CLASSES ARE
OFFERED DURING NATURAL DISASTER**

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.

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.

Subject of waiver request: National School Lunch Program, Summer Food Service Program and Child and Adult Care Program-Meal Pattern and Milk Variety flexibility when school buildings are closed and virtual classes are offered during a natural disaster

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:

The State Agency Hawaii Child Nutrition Programs (HCNP) requests this waiver for National School Lunch Program (NSLP)/School Breakfast Program (SBP)/Child and Adult Care Food Programs (CACFP)/Summer Food Service Program(SFSP) participants, in good standing, to provide flexibility when school buildings/facilities are closed.

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]:

Hawaii requests the Meal Pattern and Milk Variety Flexibility for the National School Lunch(NSLP)/School Breakfast Program(SBP), Seamless Summer Option (SSO), Summer Food Service Program (SFSP), and Child and Adult Care Program(CACFP). waivers so we may respond to unanticipated school closures due to natural disasters. With school buildings/facilities being closed during disasters, students' ability to receive healthy nutritious meals is greatly impacted. This waiver is being requested because of the exceptional circumstances that are occurring on Maui and Hawaii islands. It is not a systemic issue across all islands. This waiver will only be used for the events occurring on Maui and Hawaii.

Currently, the islands of Maui and Hawaii are experiencing fires that have decimated many communities on the islands. Schools have been lost or badly damaged. Two of the major concerns for the moment are providing meals and housing for the displaced children. The most recent report is that the island of Maui urgently needs food and water. They do not have enough of either for the people on the island and it has reached a critical level.

The State Agency desires to assist the SFAs and Sponsors to meet the nutritional needs of the children. During such extraordinary circumstances with supply chain shortages and lack of availability of items to meet USDA meal pattern requirements, all schools on Maui must be allowed flexibility to plan menus and flexibility in food component offerings to students in specific age/grade group combinations of preschoolers, grades K-5, grades 6-8, and grades 9-12.

Included in the State Agency request for meal pattern flexibility we also request a potable water requirement waiver. As much of the water supply is presumed to be unpotable this part of the waiver is also critical. 7 CFR 210.10(a)(1)(i) requires schools to make potable water available and accessible without restriction to children at no cost in the places where lunches are served during the meal service. Similarly, SBP regulations at 7 CFR 220.8(a)(1) require schools to make potable water available and accessible without restriction to children at no charge. Potable water must be available during the meal service if breakfast is served in the cafeteria.

Based on the most updated information received by the State Agency, it may be necessary to extend the meal pattern flexibility to schools on Maui that are not closed to have this option. Currently, only 60% of electricity has been restored to the island of Maui but the



electricity is intermittent. There are rolling blackouts that are occurring on the island. The consequence of unreliable electricity results in food safety issues due to the lack of working refrigeration and freezers. The State Agency has been informed that refrigeration and freezers in habitable schools may not be fully operational due to the rolling blackouts. This will affect food safety. This waiver is essential for appropriate food safety measures with the many challenges of safe food storage.

The State Agency also requests flexibility to operate the SFSP meal pattern under the SSO provision. Due to the uncertainty of food supplies available to the SFAs/Sponsors, this may be necessary to continue to provide meal service for students. Obtaining all the food supplies necessary to meet the NSLP/SBP and SSO requirements would prevent the SFAs and Sponsors from providing reimbursable meals. The State Agency wants to alleviate any burdens on the SFAs/Sponsors that would prevent the students from receiving meals. It is clear through on-the-ground reports that food is in short supply on Maui. The State Agency needs to do all that is in its power to ensure that children are not placed in a situation of being food insecure.

The waiver will support alternative meal options and is essential for our children's access to nutritious meals. As a result, shelf-stable meals may need to be utilized by all schools on Maui for the first month or even longer if necessary. The SFAs and sponsors at closed schools may need to rely on shelf-stable meals for several months. Hawaii requests FNS approves the use of this waiver for schools that are also open on Maui and Hawaii if necessary due to the lack of refrigeration and freezers. The State Agency will scrutinize every request before approval.

Returning the infrastructure of the island is a primary goal of the responders. Equipment and building supplies are taking a high priority in terms of shipments to Maui. The State Agency understands that getting food supplies to the island that meet the USDA meal pattern is also a challenge. Food is being transported to the island, but it may not all meet the USDA meal pattern requirements. Without the flexibility waiver, the SFAs and the Sponsors may not be able to continue receiving their reimbursement which would place an undue burden on the financial viability of the nutrition program.

We also request flexibility for our preschool operators who have experienced loss of facilities due to natural disasters. While we understand the waivers offered for CACFP are primarily for the at-risk afterschool component, we would like the flexibility to offer these waivers to our preschool providers who provide service in area-eligible locations.

Ultimately the waiver will alleviate the undue burden of the SFAs and Sponsors to meet the USDA requirements during these difficult times. The State Agency will work closely with the SFAs/Sponsors to determine whether meal pattern flexibility is warranted when a request for flexibility is submitted to the state agency. As always we will work closely with WRO.

Goal of Waiver to Improve Services



- If approved to utilize this waiver, for SY 23-24, the flexibility will allow SFAs and CACFP sponsors to provide meal services to students displaced by school closures due to the natural disaster. During disaster periods children have a high propensity to be food insecure. It is a social responsibility to do what is necessary to ensure children are provided nutritious meals so that they can continue to survive during these difficult times. In addition, providing nutritious meals will alleviate a major concern for families already dealing with a traumatic and devastating event.
- The waiver will allow the SFAs and sponsors to work around the challenges of any food supply issues and offer foods that do not meet the meal pattern.
- These flexibilities will allow our sponsors to continue to provide services to their students. It will also relieve some administrative pressure on sponsors and families. Sponsors can focus on providing meals without the additional worries of having to comply with the meal pattern and milk variety requirements during a disaster.

Expected Outcome of Waiver

- Use of the waiver will allow students to receive healthy nutritious meals during a natural disaster.
- The waivers will minimize hunger and food insecurity during a natural disaster.
- Allow families to focus on rebuilding their lives to get back to normal.
- Allow sponsors to concentrate on providing meals under difficult situations without the added complication of meeting the meal pattern and milk variety regulations.
- Simplify program administration for the sponsors so they can focus on the highest priority needs of their program/sites.

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

HCNP is requesting the following waivers through June 30, 2024, for NSLP/SBP:

- Meal Pattern [NSLA, 42 U.S.C. 1758(a)(2)(A)(i) and 7 CFR 210.10(b), (c), (f), (o) and (p) and 7 CFR 220.8(b), (c), (f), and (o) and 7 CFR 210.10(c), (o)(3), and (p), and 220.8(c) and (o)
- Milk Variety 7 CFR 210.10(d)(1) and 7 CFR 220.8(d)
- Potable Water 7 CFR 210.10(a)(1)(i)

HCNP is requesting the following waivers through June 30, 2024, for CACFP for at-risk afterschool centers and preschool centers:

- Meal Pattern [NSLA, 42 U.S.C. 1758(a)(2)(A)(i) and 7 CFR 210.10(b) and (c), and 7 CFR 220.8(b) and (c) and 7 CFR 210.10(c), (o)(3), and (p), and 220.8(c) and (o)
- Milk Variety 7 CFR 210.10(d)(1) and 7 CFR 220.8(d)
- Potable Water 7 CFR 210.10(a)(1)(i)

HCNP is requesting the following waivers through June 30, 2024, for the Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) Unanticipated School Closures (school 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 to allow meals to be served to siblings.



- Meal Pattern [NSLA, 42 U.S.C. 1758(a)(2)(A)(i) and 7 CFR 210.10(b) and (c), and 7 CFR 220.8(b) and (c) and 7 CFR 210.10(c), (o)(3), and (p), and 220.8(c) and (o)
- Milk Variety 7 CFR 210.10(d)(1) and 7 CFR 220.8(d)
- Potable Water 7 CFR 210.10(a)(1)(i)

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

- SFAs and Sponsors who would like to participate in these waivers during unanticipated school closure may submit a request to HCNP to serve meals with meal pattern and milk variety flexibilities.

8. 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]:

There are currently no state-level regulatory barriers related to this specific issue.

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

HCNP wishes to provide administrative and operational flexibility, where possible while maintaining program integrity in providing nutritious meals during disaster situations. If approved to utilize these waivers, HCNP will provide additional technical assistance to SFAs/Sponsors to ensure the successful implementation of the waivers.

10. 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 statewide waiver will not increase the overall cost of the program to the federal government. These programs would be operating in a situation where normal USDA Child Nutrition programs are closed due to disaster situations.

11. Anticipated waiver implementation date and time period:

The anticipated statewide implementation start date is August 18, 2023, and is to remain in effect through June 30, 2024.

12. Proposed monitoring and review procedures:

HCNP will approve written requests to implement the waiver from SFAs/ Sponsors. HCNP will provide technical assistance, oversight, and monitoring of the sponsor's performance under the requested waivers and will follow administrative review regulations for each program. This practice will be consistent with 7 CFR 210, 215, 220, 225, and 226 review requirements.

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

HCNP will report the following data points:




- A description of the impact the waiver had on meal service operations, children's access to nutritious meals, and participation in all child nutrition programs that have requested to use this waiver
- The number of participants and sites that used the waiver
- A summary of findings associated with the waiver
- No later than September 1, 2024, HCNP will report to FNS Western Regional Office (WRO) the number of sponsors that used this waiver.

14. 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/2023/08/Meal-Pattern-Flexibility-Natural-Disaster-2023_24-2.pdf

Signature and title of requesting official :

- Signature:  _____
- Title: Program Administrator _____

Sharlene Wong, SNS
Program Administrator
Hawaii Child Nutrition Programs
(808) 587-3600

Requesting official's email address for 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: