



Food and  
Nutrition  
Service

March 29, 2020

Braddock  
Metro  
Center

Kathleen DeCataldo  
Assistant Commissioner, Student Support Services  
New York State Education Department  
89 Washington Avenue  
Albany, New York 12234

1320  
Braddock  
Place  
Alexandria  
VA 22314

Dear Ms. DeCataldo,

This letter is in response to the New York State Education Department's (NY SED) waiver request to maintain children's access to meals during the novel coronavirus (COVID-19) pandemic, submitted March 23, 2020. NY SED requests a waiver of the restrictions on site eligibility requirements in the Summer Food Service Program (SFSP) and National School Lunch Program (NSLP) Seamless Summer Option (SSO). Specifically, NY SED requests to waive the requirement that open sites must be located in areas where at least 50 percent of NSLP participants are eligible for free or reduced price meals. Instead, NY SED requests to allow non-area eligible school food authorities and community organizations, in good standing, to serve meals to children through SFSP and SSO during the emergency school closures associated with COVID-19.

In its request, NY SED asserts millions of New York children attend schools during the regular school year that are not in area eligible areas or within close proximity to where the students reside. NY SED further explained that households with children are experiencing a severe shortage of groceries and accessible transportation. NY SED states that this waiver will allow children to access SFSP and SSO meals during school closures related to the pandemic at locations closest to their residence. To maintain children's access to meals, and to support families experiencing financial hardship, NY SED requests to waive the definition of "*Areas in which poor economic conditions exist*" at section 13(a)(1)(A) of the Richard B. Russell National School Lunch Act (NSLA).

Pursuant to the waiver authority granted under Section 2102(b) of the Families First Coronavirus Response Act (P.L. 116-127) (the Act) to approve waivers that may increase cost to the Federal Government and have the purpose of providing meals and meal supplements, the Food and Nutrition Service (FNS) approves this request. However, State agencies must have a plan for ensuring that new meal sites are targeting benefits to children in need, for example, children who may be newly eligible for benefits due to the economic impacts of COVID-19. State agencies should work with local Program operators in developing their plans as local Program operators are best situated to determine how to provide these assurances. This approval applies to sites operating during temporary school closures related to COVID-19. Additionally, FNS reserves the right to withdraw this approval subject to availability of funding.

Therefore, effective as of March 23, 2020, this waiver allows SFSP and SSO sponsors in good standing to operate open sites in areas approved by NY SED and consistent with the

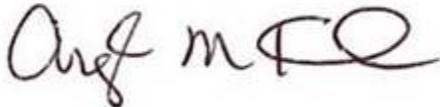
State plan, but that are not located in “*Areas in which poor economic conditions exist*” as defined at section 13(a)(1)(A) of the Richard B. Russell National School Lunch Act (NSLA) and as referenced in regulation at 7 CFR 225.2, 225.6(c)(2)(i)(G), 225.6(c)(3)(i)(B), 225.6(d)(1)(i), 225.14(c)(3), and 225.16(b)(4). This waiver remains in effect until June 30, 2020, or until expiration of the federally declared public health emergency, whichever is earlier. FNS recognizes that there may be a continued need for this waiver, and will carefully assess the situation on an ongoing basis.

As required by this waiver approval, NY SED must submit a report to the Secretary not later than 1 year after the date such State received the waiver. The report must include:

- A summary of the use of this waiver by the State agency and local Program operators,
- A summary of how new meal sites were targeted to benefits for children who were previously eligible or newly eligibly for program benefits due to the economic impacts of COVID-19, and
- A description of whether and how this waiver resulted in improved services to Program participants.

FNS appreciates NY SED’s commitment to work with sponsors to meet the nutritional needs of children during a challenging time. If you have questions, please contact the FNS Northeast Regional Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela Kline". The signature is written in a cursive, flowing style.

Angela Kline  
Director  
Policy and Program Development Division

Electronic Copy: Martine Cherry, NERO