USDA Food and Nutrition Service
U.S. DEPARTMENT OF AGRICULTURE

May 1, 2026

Vanesha Perrin
Director
South Carolina Department of Education
849 Learning Lane
West Columbia, SC, 29172

Dear Vanesha Perrin

This letter is in response to South Carolina Department of Education's (SCDE) April 24, 2026, request to waive certain requirements in the Summer Food Service Program (SFSP) and the National School Lunch Program (NSLP) Seamless Summer Option (SSO) for summer 2026 operations. In order to support continued access to nutritious meals, the Food and Nutrition Service (FNS) recognizes that certain operational flexibilities may be necessary.

FNS has authority to issue statewide waivers under Section 12(l) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1760(l). To grant a Section 12(l) waiver, the NSLA requires that the waiver must facilitate the purpose of the Program, the public must receive notice and information regarding the proposed waiver, and the waiver will not increase the overall cost of the Program to the Federal Government. FNS finds that SCDE's waiver request satisfies these statutory requirements.

Specifically, SCDE requested a statewide waiver of the requirements explained below.

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Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) Operations During Periods of Excessive Heat

The waivers in this section allow SCDE to approve SFSP and SSO sponsors operating outdoor meal sites without access to temperature-controlled alternative sites, and who are in good standing, to provide non-congregate meal service on days when the area is experiencing excessive heat. These waivers may only be used for approved outdoor sites on days when the National Weather Service (NWS) has issued a Heat Advisory, an Excessive Heat Warning, or an Excessive Heat Watch for the area where the site is located. These waivers are effective *May 1, 2026, through September 30, 2026*.

Non-Congregate Meal Service (SFSP/SSO)

Under NSLA, 42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and Program regulations at 7 CFR 225.6(i)(15), SFSP meals must be served in a congregate setting and must be consumed by participants on site. Please note that this waiver is not the same as the option to provide a rural non-congregate meal service as described in Section 13(a)(13) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761). This waiver is not limited to sites in rural areas and may only be applied to sites approved for congregate meal service.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the aforementioned requirements to serve meals through the SFSP in a congregate setting. Any other requirements referenced in these provisions remain in effect. FNS also extends the non-congregate meal service flexibility to SSO for the duration of this waiver.

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Parent and Guardian Meal Pick-Up (SFSP/SSO)

Under the NSLA, 42 U.S.C. 1761(f)(3), and program regulations at 7 CFR 225.2 (Meals), and 7 CFR 225.9(d)(7), SFSP meals must be served to eligible children.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the aforementioned requirements that meals may only be served directly to children. Any other requirements referenced in these provisions remain in effect. State agencies opting to use this flexibility must have a plan for ensuring that local operators are able to maintain accountability and program integrity. This includes putting in place processes to ensure that meals are distributed only to parents or guardians of eligible children, and that duplicate meals are not distributed to any child. FNS also extends the parent and guardian pick up flexibility to SSO for the duration of this waiver.

Meal Service Times (SFSP/SSO)

Under Program regulations at 7 CFR 225.16(c)(1), (2), and (3), meals served in the SFSP must follow meal service time requirements.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the aforementioned requirements that set meal time parameters for SFSP sites. Any other requirements referenced in these provisions remain in effect. FNS also extends the meal service times flexibility to SSO for the duration of this waiver.

If a sponsor wishes to use this meal service times waiver, additional requirements apply. The meal service times waiver requirements are intended to ensure that summer meal sites that change the time of their meal service provide adequate notice to the community to ensure there is no loss in program access.

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To use this meal service times waiver, sponsors must:

a) Not change meal service times less than 24 hours in advance of the previously scheduled meal service time,
b) Put up a printed notice or poster at the site indicating the change in meal service times to attendees,
c) Alert the community through appropriate channels (such as school or neighborhood listservs), and
d) Comply with any additional requirement(s) requested by the State agency.

Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) Operations During Periods of Air Quality Advisories

The waivers in this section allow SCDE to approve SFSP and SSO sponsors operating approved outdoor meal sites without access to alternative indoor sites, and who are in good standing, to provide non-congregate meal service on days when the area is experiencing certain air quality advisories. These waivers may only be used for approved outdoor sites on days when the air quality meets specific thresholds based on metrics developed by the Environmental Protection Agency (EPA) and the Center for Disease Control (CDC). These metrics, which are designed to help determine when to move activities indoors, equate to "very unhealthy" or" hazardous" air quality. Sites may be approved for non-congregate meal service on days when the site's zip code has an Air Quality Index (AQI) that reaches a "purple" flag level or higher, as indicated at https://www.airnow.gov/. For days when air quality is a concern, but the purple flag threshold is not met, FNS recommends sponsors with outdoor sites consider the outdoor activity guidance developed by the EPA and the CDC: https://www.airnow.gov/activity-guides-publications/. These waivers are effective *May 1, 2026, through September 30, 2026.*

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Non-Congregate Meal Service (SFSP/SSO)

Under NSLA, 42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and Program regulations at 7 CFR 225.6(i)(15), SFSP meals must be served in a congregate setting and must be consumed by participants on site. Please note that this waiver is not the same as the option to provide a rural non-congregate meal service as described in Section 13(a)(13) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761). This waiver is not limited to sites in rural areas and may only be applied to sites approved for congregate meal service.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the aforementioned requirements to serve meals through the SFSP in a congregate setting. Any other requirements referenced in these provisions remain in effect. FNS also extends the non-congregate meal service flexibility to SSO for the duration of this waiver.

Parent and Guardian Meal Pick Up (SFSP/SSO)

Under NSLA, 42 U.S.C. 1761(f)(3), and program regulations at 7 CFR 225.2 (Meals), and 7 CFR 225.9(d)(7), SFSP meals must be served to eligible children.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the requirements that meals may only be served directly to children. Any other requirements referenced in these provisions remain in effect. State agencies opting to use this flexibility must have a plan for ensuring that local operators are able to maintain accountability and program integrity. This includes putting in place processes to ensure that meals are distributed only to parents or guardians of eligible children, and that duplicate meals are not distributed to any child. FNS also extends the parent and guardian pick up flexibility to SSO for the duration of this waiver.

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Meal Service Times (SFSP/SSO)

Under Program regulations at 7 CFR 225.16(c)(1), (2), and (3), meals served in the SFSP must follow meal service time requirements.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the aforementioned requirements that set meal time parameters for SFSP sites. FNS also extends the meal service times flexibility to SSO for the duration of this waiver.

If a sponsor wishes to use this meal service times waiver, additional requirements apply. The meal service times waiver requirements are intended to ensure that summer meal sites that change the time of their meal service provide adequate notice to the community to ensure there is no loss in program access.

To use this meal service times waiver, sponsors must:

a) Not change meal service times less than 24 hours in advance of the previously scheduled meal service time,
b) Put up a printed notice or poster at the site indicating the change in meal service times to attendees,
c) Alert the community through appropriate channels (such as school or neighborhood listservs), and
d) Comply with any additional requirement(s) requested by the State agency.

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Offer Versus Serve for Non-School Food Authority (SFA) Sponsors

The waiver in this section allows SCDE to approve non-school food authority (SFA) SFSP sponsors, in good standing, to use SFSP offer versus serve (OVS) meal service parameters on a case-by-case basis. This waiver is effective *May 1, 2026, through September 30, 2026*.

Under NSLA, 42 U.S.C. 1761(f)(7) and Program regulations at 7 CFR 225.16(f)(1)(ii), the use of OVS is limited to SFAs. Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the aforementioned requirement that OVS is limited to SFAs only. Non-congregate sites may not use this waiver. Any other requirements referenced in these provisions remain in effect.

Please note that this waiver is only allowed at sites operating ***congregate*** meal service. When approving non-SFA sponsor to utilize OVS, the State agency must:

- Only approve OVS at sites that are offering a congregate meal service;
- Provide annual training and technical assistance on OVS to sponsors;
- Ensure that proper monitoring will be conducted by site monitors; and
- Ensure that the required OVS signage and visual aids are available at all sites using OVS.

Non-SFA sponsors must ensure that the following meal service parameters are met:

Breakfast:

- The following four food items must be offered:
  - One serving of fruit/vegetable,
  - One serving of bread/bread alternate,
  - One serving of fluid milk, and

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        - One additional serving of fruit/vegetable, bread/bread alternate, or a serving of a meat/meat alternate.
    - All the food items offered must be different from each other.
    - A child must take at least three of any of the four food items offered and may choose to take all four items.

Lunch or Supper:

- The following four food components must be offered through at least five different food items:
    - One serving of meat/meat alternate,
    - Two servings of fruit and/or vegetables (two different food items),
    - One serving of bread/bread alternate, and
    - One serving of fluid milk.
- All the food items offered must be different from each other.
- A child must take at least three food components and may choose to take all five items.
    - Lunch or supper OVS requirements differ from breakfast in that a child must take at least three food components, rather than items, listed above from the five food items offered. Three food components are required for an adequate nutritious meal for children.
    - Offering two servings of the same food item is not permissible under OVS in SFSP. All food items offered must be different from each other. For example, a breakfast menu that includes a serving of milk, a serving of fruit, and two servings of toast is not a reimbursable meal under OVS in SFSP because the toast is two of the same food item. Similarly, if the breakfast menu included two different kinds of cereal rather than toast, it would still not be a reimbursable meal because the cereals, although not identical, are the same food item. Additionally, a larger food item that is worth two servings in weight,

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such as a two-ounce muffin, counts as only one food item under OVS in SFSP, not two.

- Servings of all food items must adhere to the serving sizes in the SFSP meal patterns at 7 CFR 225.16(d).

The waiver authority at Section 12(l) of the NSLA requires FNS to review the performance of any State or eligible service provider that was granted a waiver. Therefore, by December 31, 2026, SCDE must provide to the FNS SERO a report quantifying the impact of the waiver, as described below. The report must include the following:

- The number of sponsors that utilized each waiver.
- A description of whether the waiver resulted in improved services to children; and
- A summary of benefits and challenges associated with the waiver.

In addition, FNS may request information on the use of the waiver on a more frequent basis. FNS appreciates SERO's commitment to work with sponsors to find efficiencies that balance the needs of local communities with cost-effective program management and integrity. If you have questions, please contact the Southeast Regional Office.

Sincerely,

J MASKORNICK Digitally signed by J MASKORNICK Date: 2026.05.01 14:35:01 -04'00'

J. Kevin Maskornick
Director
Community Meals Policy Division

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