



Food and
Nutrition
Service

March 30, 2020

Braddock
Metro
Center

Angela Olige
Assistant Commissioner for Food and Nutrition
Texas Department of Agriculture
Post Office Box 12847
Austin, Texas 78711

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Braddock
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Alexandria
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Dear Ms. Olige,

This letter is in response to the Texas Department of Agriculture's (TDA) waiver request to maintain children's access to meals during the novel coronavirus (COVID-19) pandemic, submitted March 24, 2020. TDA requests a waiver of the restrictions on site eligibility requirements in the Summer Food Service Program (SFSP) and the National School Lunch Program (NSLP) Seamless Summer Option (SSO). Specifically, TDA 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, TDA requests to allow operators in non-area eligible areas to serve meals through SFSP and SSO during emergency school closures due to COVID-19.

In its request, TDA asserts that numerous Texas businesses have furloughed employees due to shelter-in-place orders because of the ongoing pandemic. The request notes that these actions have resulted in the reduction of household income across the state of Texas. TDA states that this waiver will maintain children's access to the SFSP and SSO meal service during school closures related to the pandemic. To maintain children's access to meals, and to support families experiencing financial hardship, TDA requests to waive the following requirements: 7 CFR 225.14(c)(3), to conduct a regularly scheduled food service in "*Areas in which poor economic conditions exist;*" 7 CFR 225.6(c)(2)(i)(G) and 7 CFR 225.6(c)(3)(i)(B), *Content of sponsor application*; 7 CFR 225.6 (d)(1)(i), *Approval of sites*; and 7 CFR 225.16(b)(4), *Sites which serve children of migrant families*

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. **Please note, this waiver applies only to SFSP/SSO sponsors. In their request, TDA also asked to**

waive area eligibility requirements for at-risk sites in the Child and Adult Care Food Program, as well as, income eligibility requirements for closed enrolled sites. FNS will respond to those requests separately.

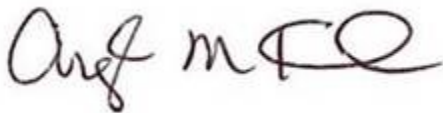
Therefore, effective as of March 24, 2020, this waiver allows SFSP and SSO sponsors in good standing to operate open sites in areas approved by TDA and consistent with the State plan, but that are not located in “*Areas in which poor economic conditions exist*” as defined at section 13(a)(1)(A) of the 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. While TDA requests this waiver through the end of the school closure period, which is currently undefined, FNS limited the duration of the waiver to assess its impact and the need for continued flexibility. 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, TDA 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 eligible 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 TDA’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 Southwest Regional Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Ang Kline".

Angela Kline
Director
Policy and Program Development Division

Electronic copy: Shannon Jones, SWRO
Wade Wilder, TDA

