July 1, 2026

Kelly Chanay

Director, Child Nutrition and Wellness

Kansas State Department of Education

900 SW Jackson, Suite 251

Topeka, KS 66612

Dear Kelly Chanay:

This letter is in response to Kansas State Department of Education's (KSDE) June 29, 2026, request to approve local program operators to provide non-congregate meal service in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), NSLP Seamless Summer Option (SSO), and Child and Adult Care Food Program (CACFP) when congregate meal service operations are limited due to natural disasters, unscheduled major building repairs, court orders relating to building safety or other issues, labor-management disputes, or, when approved by the State agency, for a similar unanticipated cause. In order to support continued access to nutritious meals, the Food and Nutrition Administration (FNA) recognizes that certain operational flexibilities may be necessary.

FNA 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

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overall cost of the Program to the Federal Government. FNA finds that KSDE's waiver request satisfies these statutory requirements.

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

Summer Food Service Program and Seamless Summer Option (School buildings are closed with no virtual learning)

The waivers in this section apply to SFSP and SSO when school is closed due to the unanticipated causes listed in the first paragraph of this waiver. This applies when buildings are closed, and virtual classes are not offered. These waivers are effective through June 30, 2027.

Non-Congregate Meal Service (SFSP/SSO)

Under the 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 served at sites approved for congregate meal service must be served in a congregate setting and must be consumed by participants on site.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNA waives the aforementioned requirements to serve SFSP meals at sites approved for congregate meal service, where meals must be consumed onsite. Any other requirements referenced in these provisions remain in effect. FNA also extends the non-congregate meal flexibility to SSO for the duration of this waiver.

Meal Service Times (SFSP/SSO)

Under Program regulations at 7 CFR 210.10(l), 7 CFR 220.8(l), 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, FNA waives the aforementioned requirements that set meal time parameters for SFSP sites. Any other

requirements referenced in these provisions remain in effect. FNA also extends the meal service times flexibility to SSO for the duration of this waiver.

Parent and Guardian Meal Pickup (SFSP/SSO)

Under the NSLA, 42 U.S.C. 1761(f)(3), and Program regulations at 7 CFR 210.10(a), 7 CFR 220.2 (Breakfast), 7 CFR 220.8(a), 7 CFR 225.2 (Meals), and 7 CFR 225.9(d)(7), meals must be served to eligible children.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNA 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. FNA also extends the parent and guardian pick up flexibility to SSO for the duration of this waiver.

Service of Meals at School Sites during Unanticipated School Closures (SFSP/SSO)

Under the NSLA, 42 U.S.C. 1761(c)(1) and Program regulations at 7 CFR 225.6(h)(1)(iv), State agencies may approve meal service operations only at non-school sites during unanticipated school closures.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, during an unanticipated school closure, FNA waives the aforementioned requirements that limit the operation of SFSP to non-school sites. School sites may only serve meals during unanticipated school closures if doing so does not present a safety concern. FNA also extends the service of meals at school sites during unanticipated school closures flexibility to SSO for the duration of this waiver.

As a reminder, SFSP and SSO sites must be in the attendance area of an elementary, middle, or high school where at least 50 percent of the enrolled children are eligible for free or reduced price school meals, in a geographic area where, based on the most recent census data available, at least 50 percent of the children residing in those areas are eligible for free or reduced price meals, or in a geographic area where a site demonstrates, based on approved sources, that at least 50 percent of the children enrolled are eligible for free or reduced price meals as provided in 7 CFR 225.2 (areas in which poor economic conditions exist).

National School Lunch and School Breakfast Programs (School buildings are closed with virtual learning)

The waivers in this section are intended to provide needed flexibility to support school food authorities (SFAs) in continuing to offer nutritious meals during school building closures due to the unanticipated causes listed in the first paragraph of this waiver when virtual classes are offered. These waivers are effective through June 30, 2027.

Non-Congregate Meal Service (NSLP/SBP)

Under the NSLA, 42 U.S.C. 1753(b)(1)(A), and the Child Nutrition Act, 42 U.S.C. 1773(b)(1)(A), NSLP and SBP meals must be served in a congregate setting and must be consumed by participants on site.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNA waives the aforementioned requirements to serve meals through the NSLP and SBP in a congregate setting. Any other requirements referenced in these provisions remain in effect.

Meal Service Times (NSLP/SBP)

Under Program regulations at 7 CFR 210.10(l) and 7 CFR 220.8(l), meals served in the NSLP and SBP must follow meal service time requirements.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNA waives the aforementioned requirements that set meal time parameters for school lunch and breakfast.

Parent and Guardian Meal Pickup (NSLP/SBP)

Under Program regulations at 7 CFR 210.10(a), 7 CFR 220.2 (Breakfast), and 7 CFR 220.8(a), meals must be served to eligible children.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNA 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.

Offer Versus Serve (NSLP only)

Under the NSLA, 42 U.S.C. 1758(a)(3), and Program regulations at 7 CFR 210.10(e), program operators of senior high schools (as defined by the State education agency) must participate in offer versus serve at lunch.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNA waives the requirements to serve school lunches to senior high school students using offer versus serve. FNA also extends the offer versus serve flexibility to SSO for the duration of this waiver when there is an unanticipated school closure during the school year.

As a reminder, schools that are not participating in a Special Provision Option, such as the Community Eligibility Provision or Provision 2, must continue to count and claim meals by type (free, reduced price, or paid) when operating the NSLP or SBP under this approval.

Schools participating in a Special Provision Option must continue to claim meals according to the requirements of that Provision when operating NSLP or SBP under this approval.

Child and Adult Care Food Program (Buildings are closed for child care centers, adult day care centers, emergency shelters, day care homes, outside-school-hours care centers, and/or at-risk afterschool sites):

The waivers in this section apply to all components of CACFP. These waivers are intended to provide needed flexibility to support program operators in continuing to offer nutritious meals during closures due to the unanticipated causes listed in the first paragraph of this waiver. These waivers are effective through June 30, 2027.

Non-Congregate Meal Service (CACFP)

Under the NSLA, 42 U.S.C. 1766(f)(1)(A) and Program regulations at 7 CFR 226.19 (b)(6)(iii), CACFP meals must be served in a congregate setting and must be consumed by participants on site.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNA waives the requirements to serve meals through the CACFP in a congregate setting. Any other requirements referenced in these provisions remain in effect.

Meal Service Times (CACFP)

Under Program regulations at 7 CFR 226.17a(m) and 226.20(k), meals served in the CACFP must follow meal service time requirements.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNA waives the aforementioned requirements that set meal time parameters for CACFP operators. Any other requirements referenced in these provisions remain in effect.

Parent and Guardian Meal Pickup (CACFP)

Under the NSLA, 42 U.S.C. 1766(f)(1)(A) and Program regulations at 7 CFR 226.2 (Meals), meals must be served to eligible participants.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNA waives the requirements that CACFP meals may only be served directly to enrolled participants. 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 participants, and that duplicate meals are not distributed to any participant.

Enrichment Activity (CACFP)

Under the NSLA, 42 U.S.C. 1766(r)(2)(B), afterschool meals and snacks must be served in a school or Program with an educational or enrichment purpose. FNA regulations further require at 7 CFR 226.17a(b)(1)(ii) and (iii), eligible schools and at-risk afterschool care centers to serve afterschool meals and snacks in a structured and supervised environment, with an educational or enrichment activity.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNA waives the aforementioned requirements that require educational or enrichment activities for the at-risk component of CACFP. Any other requirements referenced in these provisions remain in effect.

As a reminder, CACFP regulations require that at-risk afterschool centers must be located in the attendance area of a school (an elementary, middle, or high school) where at least 50 percent of the students are eligible for free or reduced price meals under the NSLP. School data used to establish free and reduced price eligibility is valid for a period of five years. More information regarding area eligibility can be found at 7 CFR 226.17a(i) and in SP08 CACFP04

SFSP03-2017: Area Eligibility in Child Nutrition Programs (https://www.fna.usda.gov/cn/area-eligibility-child-nutrition-programs).

FNA is granting these waivers to allow KSDE and local program operators to more quickly respond to those occasions when congregate meal service is limited or negatively impacted by unanticipated building closures caused by natural disasters, unscheduled major building repairs, court orders relating to building safety or other issues, labor-management disputes, or, when approved by the State agency, for a similar unanticipated cause. However, KSDE **may not** approve a waiver for a local program operator for more than 10 consecutive operating days without approval from FNA. In situations that may warrant longer approval periods, the FNA Mountain Plains Regional Office (MPRO) will work closely with KSDE to determine if an extension is needed.

The waiver authority at Section 12(l) of the NSLA requires FNA to review the performance of any State or eligible service provider that was granted a waiver. Therefore, by September 30, 2027, KSDE must provide to the FNA MPRO a report quantifying the impact of the waiver, as described below. The report must include the following:

- A description of how the waiver improved services to participants;
- A summary of benefits and challenges associated with the waiver;
- The number of local program operators (i.e., LEAs, sponsors, or independent centers) that utilized each set of waivers (i.e., the number utilizing SFSP/SSO waivers, NSLP/SBP waivers, and CACFP waivers);
- The number and description of which CACFP component (i.e., child care centers, adult day care centers, emergency shelters, day care homes, outside-school-hours care centers, and/or at-risk afterschool sites) that utilized this waiver; and
- A description of why congregate meal service was limited (e.g., natural disasters, unscheduled major building repairs, etc.).

In addition, State agencies should maintain sufficient documentation to ensure local program operators are appropriately implementing the waivers.

If you have questions, please contact the FNA MPRO.

Sincerely,

TINA NAMIAN

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Tina Namian

Deputy Associate Administrator

Child Nutrition Programs