



# DEPARTMENT OF EDUCATION

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July 13, 2023

## MEMORANDUM

**TO:** Summer Food Service Program (SFSP) Sponsors

**FROM:** Aimee F. Beam, MS, RD *AB*  
Education Associate, Nutrition Programs

**RE:** **2023 Operational Memo #15**  
**Non-Congregate Meal Service during Air Quality Advisory**

The Delaware Department of Education (DDOE) has received approval for the Air Quality Advisory waiver request, which allows sponsors with approved outdoor meal sites without shelter from hazardous air quality, or without an alternative service site, the opportunity to provide non-congregate meals during air quality advisory days. Non-congregate meal service shall be permitted only on days when the National Weather Service (NWS) has issued an Air Quality Advisory for the area in which an approved outdoor meal site is located and not at the Sponsor and/or site location's discretion. The DDOE will send emails notifying Sponsors of NWS alerts.

Sponsors interested in participating in this waiver for Summer 2023 must provide the Nutrition Programs Office with the following:

- Email your intent to participate and a list of identified approved sites with meal types to Stephanie Burks at [stephanie.burks@doe.k12.de.us](mailto:stephanie.burks@doe.k12.de.us)
- Utilize the attached spreadsheet to record and track the type and number of meals served on Air Quality Advisory days. Email the completed spreadsheet within 10 days of the non-congregate meal service to Marianne Bernardi at [marianne.bernardi@doe.k12.de.us](mailto:marianne.bernardi@doe.k12.de.us).

Because meals served will be consumed off site:

- Sponsors should carefully consider all food safety issues and risks;
- Only one meal may be provided to each child present; and
- Meals may not be provided to adults or other children to take to others not present at the site.

Outdoor sites with available air quality-controlled alternative sites cannot participate in the waiver and should serve meals at the air quality-controlled alternative site when the area is experiencing air quality advisories.

If you have any questions or need assistance, please contact us at 302-857-3356. A copy of the approved waiver is attached for your reference.

Attachments: 2023 SFSP Sponsor Air Quality Advisory Tracking Log, SFSP\_23\_Air\_Quality\_DE\_12(I)\_Waiver  
cc: Nutrition Team

## CHILD NUTRITION PROGRAM STATE WAIVER REQUEST TEMPLATE

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 (CNPs), 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.

**1. State agency submitting waiver request and responsible State agency staff contact information:**

Delaware Department of Education  
Aimee Beam, MS, RD  
Education Associate, Nutrition Programs  
35 Commerce Way, Suite 1  
Dover, DE 19901  
[Aimee.beam@doe.k12.de.us](mailto:Aimee.beam@doe.k12.de.us)  
302-857-3356

**2. Region:** Mid-Atlantic Region

**3. Eligible service providers participating in waiver and affirmation that they are in good standing:** We are seeking a statewide waiver that would apply to all SFSP and Seamless Summer Option (SSO) sponsors in Delaware. Only SFSP and SSO sponsors who are approved for operation in 2023 and who are in good standing will be allowed to participate in this waiver.

**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]:**

It is unsafe for children to participate in outdoor meals and activities on days where poor air quality exists. The Mid-Atlantic Region has been under air quality alerts due to wildfire smoke from Canada. If this waiver request is approved, SFSP and SSO sponsors will be able to request pre-approval from the State agency to serve non-congregate meals on days where an Air Quality Alert is issued by the National Weather Service. Any sponsor that receives pre-approval and utilizes the non-congregate meal waiver for this purpose will be required to notify the State agency prior to submitting a claim if they utilized the waiver. They will also be required to submit the Air Quality Alert notification from the National Weather Service.

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

- Non-Congregate Meal Service during Summer 2023 [42 U.S.C. 1753(b)(1)(A), 42U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(i)(15)]

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

If approved, there are no significant impacts on technology, state systems, or monitoring.

**7. 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.

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

DDOE does not anticipate that the establishment of this statewide waiver will pose any challenges at the state or sponsor level.

**9. 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]:**

There is no anticipated cost increase to the Program or the Federal Government.

**10. Anticipated waiver implementation date and time period:**

The anticipated statewide implementation start date is upon approval from USDA and is to remain in effect through September 30, 2023, or until the beginning of the school year.

**11. Proposed monitoring and review procedures:** The State agency will require sponsors to submit a request to participate in this waiver and provide the State agency with a list of sites that will use this waiver. The State agency will maintain the list of sites and data of Air

Quality Alerts to monitor during normal monitoring activities, as well as to cross check during Administrative Reviews. This practice will be consistent with 7 CFR 210, 220, and 225 review requirements.

**12. Proposed reporting requirements (include type of data and due date(s) to FNS):** The State agency will maintain a list of sponsors and sites approved to participate in the waiver, along with the list of days the waiver was approved to be used. The sponsors will maintain the number of meals served, by site, for each day the waiver is used. No later than October 30, 2023, DDOE will report to USDA the number of sponsors that used this waiver.

**13. 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]:**

<https://www.doe.k12.de.us/Page/2790>

**14. Signature and title of requesting official:**



\_\_\_\_\_  
Title: Education Associate, Nutrition Programs

Requesting official's email address for transmission of response:

[aimee.beam@doe.k12.de.us](mailto:aimee.beam@doe.k12.de.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:**

- 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:**

**SFSP 2023 Air Quality Advisory Waiver Tracking**

**Sponsor Name:**

Date Meals Permitted Off-Site	Site Name	Site Location	Number of Meals				
			Breakfast	Lunch	AM Snack	PM Snack	Dinner
<b>TOTALS:</b>			0	0	0	0	0
<b>Total ALL Meals:</b>		0					