

**Request to Waive the Requirement of the State Agency to Notify the Applicant of its Approval or Disapproval Within 30 Days of Receiving a Complete and Correct Application.**

**1. State agency submitting waiver:** New York State Education Department (SED)

State Agency Director: Kimberly Vumbaco

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**2. Region:** Northeast

**3. Eligible service providers participating in waiver and affirmation that they are in good standing:**

This waiver applies to the State Agency.

**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(1)(2)(A)(iii) and 12 (1)(2)(A)(iv) of the NSLA]:**

Challenge:

Historically SED maintains strict deadlines to ensure sponsors are approved within 30 days of submission of a complete and accurate application. SED's application approval process is comprehensive and includes a second review of each application by a supervisor to ensure applications are appropriately approvable and accurately documented in SED's online management system. However, due to the following extenuating circumstances related to the Pandemic, SED received over 530 (220 new) applications to participate in the summer 2020 meal program. Traditionally, SED receives approximately 300 applications, approximately 30 are new. Despite SED's efforts to work diligently and expeditiously to approve applications within the deadline, approximately five percent of applications were approved after 30 days of receiving a complete application.

- The NYS Governor required schools to ensure children's access to summer meals through the school or other community organizations.
- Sleepaway camps could not operate during the summer, causing affected sponsors to reorganize their summer plans and change meal operations from what had been originally requested on their application, requiring more time for SED to process.
- The USDA flexibility waiver for area eligibility was released by USDA on June 10, 2020. At that time, the USDA Northeast Regional Office (NERO) advised SED that their interpretation of the waiver memo was that it only applied to meal distribution locations which served meals during the unanticipated school closure. During the NERO call with States on June 24, 2020, NERO provided clarification to SED that the waiver would apply to all site locations for the 2020 summer. As a result, SED gave a second application deadline extension to June 30, 2020, to allow operators an opportunity to participate.
- Many schools providing meals while schools were closed operated the Seamless Summer Option and only became eligible to operate the SFSP as of June 10, 2020 (area eligibility

- waiver) and had to apply as a new SFSP sponsor to maximize operations and reimbursements during the summer.
- The amount of time necessary to process applications was prolonged due to many factors specific to the Pandemic. The application process was more complicated given the flexibilities provided by USDA. Most applications submitted were incomplete, requiring SED to request and evaluate additional information and documentation to support program operations.
    - A vast number of sponsors, both experienced and new, were changing operations to accommodate the increased need in their communities throughout the application process. This resulted in multiple exchanges between SED and each sponsor (some consisting of up to 40 separate communications) for SED to receive supporting documentation and to understand each sponsor's operations and systems to ensure program integrity.
    - New sponsors are required to provide more information in their application compared to experienced sponsors. There was an 86 percent increase in the number of new sponsor applications submitted (from 30 to 220) requiring additional time to complete the application approval process for the unprecedented number of new applicants while providing extensive technical assistance to new sponsors simultaneously.
    - SED began processing sponsor applications at the beginning of June and worked diligently and expeditiously as possible to approve approximately 50 sponsor applications weekly.
  - The SED on-line system has been continuously reprogrammed and updated to accommodate the Pandemic-related USDA flexibilities for tracking, claiming and mandatory reporting to USDA. SED staff were intensely involved in developing, requesting, testing, and approving system modifications to ensure the integrity of SED's processes while simultaneously processing SFSP sponsor applications.
  - SED developed and provided ongoing guidance and training to operators in the form of memorandums and webinars while simultaneously processing SFSP sponsor applications.

Goal:

SED is relieved from the 30-day application determination requirement to ensure application information is reviewed and accurately documented in SED's online system prior to application approval.

Expected Outcomes:

SED will approve applications expeditiously, even if determinations go beyond the 30-day timeframe.

**5. Specific Program requirements to be waived (include statutory and regulatory citation).  
Section 12(1)(2)(A)(i) of the NSLA:**

SED requests a waiver of regulations at 7 CFR 225.6(b)(3) requiring the State Agency to notify the applicant of its approval or disapproval within 30 days of receiving a complete and correct application.

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

SFSP sponsor applications will be approved as quickly as they are processed by SED.

There are no financial impacts on technology, State systems or monitoring.

**7. Description of any steps the State has taken to address regulatory barriers at the State level:**

Currently, there are no State level regulatory barriers related to this issue.

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

SED does not presently anticipate any challenges with the implementation of the waiver.

**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:**

The establishment of this statewide waiver will not increase the overall cost to the Federal Government.

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

SED anticipates implementing this waiver immediately upon approval. The waiver will remain in effect through September 30, 2021.

**11. Proposed monitoring and review procedures:**

SED will continue to monitor sponsors in accordance with Program requirements. SED staff will work with their assigned sponsors to provide technical assistance and ongoing guidance.

**12. Proposed reporting requirements (include type of data and due date(s) to FNS):**

SED will use the Child Nutrition Management System (CNMS), SED's online management system, to log and track the application approval process. SED will report to FNS the number of sponsor applications that were approved after the 30-day timeframe. This data can be provided to FNS at any time.

**13. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(1)(1)(A)(ii) of the NSLA]:**

<http://www.cn.nysed.gov/content/nys-cnp-waiver-request-0>

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



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Title: Assistant Commissioner

Requesting official's email address for transmission of response:  
Kathleen.DeCataldo@nysed.gov

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: 9/24/20

X 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:

NERO has reviewed NYSED's request to waive the timeline requirements regarding application approval. NERO approves this request.