



GOVERNMENT OF PUERTO RICO  
DEPARTMENT OF EDUCATION  
STATE AGENCY, FOOD AND NUTRITION SERVICES  
Acting Director | Lourdes N. García Santiago, MBA, LND | [garciasln@de.pr.gov](mailto:garciasln@de.pr.gov)

June 2, 2022

Puerto Rico State Agency Department of Education NSLP, SBP and  
CACFP Waivers Request for SY 2022 2023

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

Puerto Rico State Agency, Food and Nutrition Services of the Department of Education (AESAN)

P.O. Box 190759

San Juan, Puerto Rico 00919-0759

Tel: 787-759-2000 ext. 6292, 5044

SA Contact:

Lourdes N. Garcia – SA Acting Director, [garciasln@de.pr.gov](mailto:garciasln@de.pr.gov)

Evelyn F. López Ramos CACFP Coordinator, [lopezrev@de.pr.gov](mailto:lopezrev@de.pr.gov)

Enid Llabrés - SSO Acting Coordinator [llabres\\_e@de.pr.gov](mailto:llabres_e@de.pr.gov)

2. Region:

MARO

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

Statewide waivers requested for sponsors of NSLP, SBP, FFVP and CACFP in good standing, to provide meals during an outbreak or extraordinary cases of COVID-19. In These waivers will be implemented by programs operators when congregate meals service is limited by the pandemic.

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]:

As sponsors continue to respond to and recover from the COVID-19 pandemic, it is important to reduce administrative burden to the fullest extent possible. Sponsors are continuing to face extensive supply chain and staffing challenges as they work to transition back to normal operations.

At this time, the COVID-19 positivity cases in PR are in 33% and may vary day by day. Our state agency desires to provide administrative and operational flexibility, where possible, while maintaining program integrity in providing nutritious meals during COVID-19 response. PRSA is planning to provide extensive technical assistance and training in the coming months on several regulatory and operational aspects of the meal programs. A relief of these regulatory requirements will help us to better meet the needs of our sponsors.

These waivers will allow for additional flexibility when needed during this next school year 2022-2023 and will avoid the spreading of the virus during a congregate sitting service. The non-congregate meal service, parent/guardian meal pickup, meal service times, and offer versus serve waiver will be implemented only when needed and during extraordinary cases.

The goal of this waiver is to decrease some administrative pressures for the sponsor for this next transitional year, maintain sponsor and site program participation and minimize hunger in the local communities.

Also, the approval of this waiver will allow PRSA staff to focus on targeted technical assistance and training for sponsors as they as they face all the supply chain and labor shortage challenges.



### Anticipated impact if not approved

If FNS does not approve these waivers, it will affect the possibility to serve meals to children with COVID-19 virus. These waivers approval will help sponsors to avoid hunger to most vulnerable population in Puerto Rico during the emergency of COVID-19.

If the waiver is not approved, the following impact will likely occur:

- a) The participants affected will not be receiving any meal daily,
- b) Without these waivers, sponsors will spend an extraordinary amount of time completing activities related to regulatory burden rather than focusing on properly servicing students and children
- c) Decreased program participation as the public health emergency continues and COVID-19 cases continue to cycle through pockets of state as new variants arise.
- d) Food insecurity will continue to be an issue for students and children as the price of consumer goods has increased and families will have to make tough decisions on how they spend money.
- e) Sponsors will not receive funds by reimbursement, affecting their financial area, and
- f) Affect nutritional, physical and well-being families' health during an outbreak of COVID-19.

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

See Attached Check List.

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 or state systems. These waivers will allow NSLP, SBP and CACFP sponsors in good standing to serve meals under during extraordinary cases due of coronavirus, in a non-congregate setting. Approval of these waivers will ensure that children and adults have the nutrition needed during a COVID -19 breakout.

Thru trainings, visits and reviews, the PRSA will maintain a track of sponsors that were approved to utilize these waivers during a COVID-19 outbreak or extraordinary cases related to it.

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]:

No state level barrier has been identified.

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

There are no anticipated challenges with waiver implementation for eligible sponsors.

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 impact on PR' SA administrative cost for state agency oversight with implementation of this waiver.

10. Anticipated waiver implementation date and time period:

See Attached Check List.

11. Proposed monitoring and review procedures:

NSLP, SBP and CACFP sponsors will be monitored by the PR-SA and standard review procedures will continue to be follow. This practice will be consistent with 7 CFR 210, 220, and 226 review requirements.

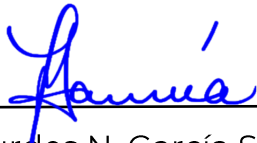
12. Proposed reporting requirements (include type of data and due date(s) to FNS):

PR-SA will collect and submit data as required.

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://de.pr.gov/aesan/wp-content/uploads/2022/06/2022-2023-PRs-SA-SY-COVID-19-Waivers-Request.pdf>

14. Signature and title of requesting official:



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Lourdes N. García Santiago, MBA, LND

Title: PR' SA Acting Director

Email: garciasln@de.pr.gov

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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:

## Summer 2022 and SY 2022-23 Child Nutrition Programs 12(l) Waiver Checklist

**State Agency:** PuertoRico

**Date:** June 2, 2022

*\*Longest effective dates are in italics; actual effective dates are contingent on date of approval*

### **Summer Food Service Program (SFSP) and Seamless Summer Option (SSO):**

*The waivers in this section apply to SFSP and SSO for summer 2022. However, FNS expects that flexibilities under the waivers in this section will only be implemented by Program operators when congregate meal service is limited by the COVID-19 pandemic.*

- Waiver 1: Non-Congregate Meal Service during Summer 2022 [42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(e)(15)] (*May 1, 2022-September 30, 2022*)
- Waiver 2: Parent/Guardian Meal Pickup during Summer 2022 [42 U.S.C. 1761(f)(3), 7 CFR 210.10(a), 7 CFR 220.2, 7 CFR 220.8(a), 7 CFR 225.2 (Meals), and 7 CFR 225.9(d)(7)] (*May 1, 2022-September 30, 2022*)

### **National School Lunch Program (NSLP) and School Breakfast Program (SBP):**

*The following waivers are intended to provide needed flexibility to support school food authorities (SFAs). FNS expects that flexibilities under the waivers in this section will only be implemented by Program operators when congregate meal service is limited by the COVID-19 pandemic.*

- Waiver 3: Non-Congregate Meal Service [42 U.S.C. 1753(b)(1)(A) and 42 U.S.C. 1773(b)(1)(A)] (*July 1, 2022 – June 30, 2023*)
- Waiver 4: Parent/Guardian Meal Pickup [7 CFR 210.10(a), 220.2 (Breakfast), and 220.8(a)] (*July 1, 2022 – June 30, 2023*)
- Waiver 5: Meal Service Times [7 CFR 210.10(l) and 220.8(l)] (*July 1, 2022 – June 30, 2023*)
- Waiver 6: Offer Versus Serve [42 U.S.C. 1758(a)(3) and 7 CFR 210.10(e)] (*July 1, 2022 – June 30, 2023*)

### **School Year Administration (NSLP/SBP/SFSP):**

*The following waivers allow State and local Program operators to overcome administrative challenges resulting from COVID-19 and to appropriately allocate their limited staffing resources to ensure safe service of meals to children as they respond to and recover from the COVID-19 pandemic. FNS expects Program operators will only use these flexibilities for the duration and extent that they are needed.*

- Waiver 7: Local School Wellness Policy Triennial Assessment [42 U.S.C. 1758b(b) and 7 CFR 210.31(e)(2)] (*July 1, 2022 – June 30, 2023*)
- Waiver 8: Food Service Management Company (FSMC) contract duration [7 CFR 210.16(d), 7 CFR 225.6(h)(7)] (*July 1, 2022 – June 30, 2023*)
- Waiver 9: Administrative Review Onsite Requirements [7 CFR 210.18] (*End of PHE\*\* – June 30, 2023*)

- Onsite Requirement for SFA Onsite Reviews by February 1 [7 CFR 210.8(a)(1) and 220.11(d)(1)] (*End of PHE\*\* – June 30, 2023*)
- Onsite Requirement for Afterschool Care Reviews [7 CFR 210.9(c)(7)] (*End of PHE\*\* – June 30, 2023*)
- Onsite Requirement for Periodic Onsite Visits when Utilizing an FSMC [7 CFR 210.16(a)(3) and 220.7(d)(1)(iii)] (*End of PHE\*\* – June 30, 2023*)

**Reporting Requirements (NSLP):**

*The following waivers allow State and local Program operators to appropriately allocate their limited staffing resources to meal service to best ensure safe service of meals to children as they respond to and recover from the COVID-19 pandemic.*

- Waiver 10: FNS-874 Second (Independent) Review of Applications [42 U.S.C. 1769(c)(b)(6)(E)(iii) and 7 CFR 245.11(b)(2)] (*July 1, 2022 – June 30, 2023*)
- Waiver 11: FNS-640 Administrative Review Data Report [42 U.S.C. 1769c(b)(1)(c)(iv) and 7 CFR 210.18(n)] (*July 1, 2022 – June 30, 2023*)

**Special Milk Program (SMP):**

*The following waivers are intended to provide needed flexibility to support schools and institutions in continuing to offer milk. FNS expects that flexibilities under the waivers in this section will only be implemented by Program operators when congregate milk service is limited by the COVID-19 pandemic.*

- Waiver 12: Non-Congregate Milk Service [42 U.S.C. 1772(a)(1) and 7 CFR 215.1] (*July 1, 2022 – June 30, 2023*)
- Waiver 13: Parent/Guardian Milk Pickup [42 U.S.C. 1772(a)(7), 7 CFR 215.7(d)(2)(i), and 7 CFR 215.13a(a)] (*July 1, 2022 – June 30, 2023*)

**Fresh Fruit and Vegetable Program (FFVP):**

*The following waivers are intended to provide needed flexibility to support schools in continuing to participate in the FFVP. FNS expects that flexibilities under the waivers in this section will only be implemented by Program operators when the FFVP elementary school is closed for in-person instruction and congregate meal service is limited by the COVID-19 pandemic.*

- Waiver 14: Parent/Guardian FFVP Pickup [42 U.S.C. 1769a] (*July 1, 2022 – June 30, 2023*)
- Waiver 15: Alternate Site [42 U.S.C. 1769a(a)] (*July 1, 2022 – June 30, 2023*)

**Unanticipated School Closures:**

*The waivers in this section apply to SFSP and SSO during unanticipated school closures. FNS expects that flexibilities under these waivers will only be implemented by Program operators when congregate meal service is limited by the COVID-19 pandemic.*

- Waiver 16: Non-Congregate Meal Service during Unanticipated School Closures in SY 2022-23 [42 U.S.C. 1753(b)(1)(A), 42 U.S.C. 1761(a)(1)(D), and 7 CFR 225.6(e)(15)] (*October 1, 2022 – April 30, 2023*)

- Waiver 17: Parent and Guardian Meal Pick-Up during Unanticipated School Closures (SFSP/SSO) [42 U.S.C. 1761(f)(3) and 7 CFR 210.10(a), 220.2 (Breakfast), 220.8(a), 225.2 (Meals), and 225.9(d)(7)] (*October 1, 2022 – April 30, 2023*)
- Waiver 18: Meal Service Times for Unanticipated School Closures in SY 2022-23 [7 CFR 225.16(c)(1) and 225.16(c)(2)] (*October 1, 2022 – April 30, 2023*)
- Waiver 19: Meals at School Sites for Unanticipated School Closures in SY 2022-23 [42 U.S.C. 1761(c)(1) and 7 CFR 225.6(d)(1)(iv)] (*October 1, 2022 – April 30, 2023*)

**Child and Adult Care Food Program (CACFP):**

*The waivers in this section apply to CACFP. FNS expects that operational flexibilities under these waivers will only be implemented by Program operators when congregation is limited by the COVID-19 pandemic. FNS expects that monitoring flexibilities will only be implemented when pandemic conditions interfere with the ability of State agencies and sponsoring organizations to conduct reviews onsite.*

- Waiver 20: Non-Congregate Meal Service [42 U.S.C 1753(b)(1)(A) and 7 CFR 226.19(b)(6)(iii)] (*July 1, 2022 – June 30, 2023*)
- Waiver 21: Parent/Guardian Meal Pick-Up [7 CFR 226.2 (Meals)] (*July 1, 2022 – June 30, 2023*)
- Waiver 22: Meal Service Times [7 CFR 226.20(k)] (*July 1, 2022 – June 30, 2023*)
- Waiver 23: State Agency Onsite Monitoring Visits [7 CFR 226.6(b)(1) and 226.6(m)(6)] (*End of PHE\*\* – June 30, 2023*)
- Waiver 24: Sponsoring Organization Onsite Monitoring Visits [7 CFR 226.16(d)(4)(iii)] (*End of PHE\*\* – June 30, 2023*)

**Additional Flexibilities (NSLP/SBP):**

The following waivers provide needed flexibility and allow State and local Program operators to overcome challenges resulting from COVID-19. FNS expects Program operators will only use these flexibilities for the duration and extent that they are needed.

- Waiver 25: Paid Lunch Equity [42 U.S.C. 1760(p)(2) and 7 CFR 210.14(e)] (*July 1, 2022 – June 30, 2023*)
- Waiver 26: Use of Prior Year Eligibility Determinations for School Year 2022-2023 Carryover [42 U.S.C. 1758(b)(C) and 7 CFR 245.6(c)(2)] (*July 1, 2022- June 30, 2023*)

\*\* Current nationwide waivers of onsite monitoring for NSLP, SBP, and CACFP remain in effect until 30 days after the end of the Public Health Emergency (PHE). The end of the PHE will be declared by the U.S. Department of Health and Human Services.