



United States Department of Agriculture

Food and  
Nutrition  
Service

May 26, 2023

Braddock  
Metro Center

Jane McLucas, Director  
Child Nutrition  
Maine Department of Education  
136 State House Station  
Augusta, ME 04333-0136

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Dear Jane McLucas:

This letter is in response to Maine Department of Education's (MDOE) May 12, 2023, request to waive the requirement to meet the annual Community Eligibility Provision (CEP) election deadline for school year (SY) 2023-2024.

Specifically, MDOE has requested a waiver under Section 12(l) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1760(l)) to waive the statutory requirement at Section 11(a)(1)(F)(x)(I) of the NSLA (42 U.S.C. 1759a) that local educational agencies (LEAs) intending to elect CEP in the following school year must notify the State agency and submit identified student percentage (ISP) documentation not later than June 30 of the current school year. This requirement is codified in FNS regulations at 7 CFR 245.9(f)(4)(i). MDOE is requesting this waiver to extend the CEP election deadline to August 15, 2023, for LEAs in good standing and approved to operate the National School Lunch Program (NSLP) and School Breakfast Program (SBP).

MDOE intends to implement a statewide healthy school meals for all program for SY 2023-2024. In recognition that eligible LEAs may need additional time to review requirements, determine financial viability, and submit CEP applications, MDOE is requesting LEAs be able to notify the State agency and elect CEP later than required. Providing an extension to the election deadline will also allow ample time for MDOE to provide technical assistance and training on the requirements for CEP approval and operations.

To grant a waiver under Section 12(l) of the NSLA, the NSLA requires that the waiver must facilitate the purpose of the Program(s), the public must receive notice and information regarding the proposed waiver, and the waiver will not increase the overall cost of the Program(s) to the Federal Government. FNS finds that MDOE's waiver request satisfies these statutory requirements.

After reviewing the waiver request and confirming that MDOE has met the statutory requirements, FNS has determined that approval of this waiver request would facilitate the ability of the State and LEAs to carry out the purpose of the Programs. Therefore, pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS is providing approval for MDOE to waive the statutory and regulatory requirements at Section 11(a)(1)(F)(x)(I) of the NSLA (42 U.S.C. 1759a) and at 7 CFR 245.9(f)(4)(i) for SY

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2023-2024, that require LEAs electing CEP for the subsequent school year to notify and submit the ISP documentation to the State agency by June 30. The waiver will allow MDOE to extend the CEP election date to August 15, 2023, as requested.

The waiver authority at Section 12(1) of the NSLA requires FNS to review the performance of any State or Program operator that was granted a waiver. Therefore, by November 30, 2023, MDOE must provide to the FNS Northeast Regional Office a report quantifying the impact of the waiver as described below.

The report must include the following:

- A description of how the waiver impacted NSLP and SBP meal service operations;
- A description of whether the waiver resulted in improved services to children; and,
- A description of how the waiver reduced the quantity of paperwork necessary to administer the Program.

If you have questions, please contact the FNS Northeast Regional Office.

Sincerely,

Tina Namian  
Director  
School Meals Policy Division