

**At-Risk Continuous Operation during COVID-19  
Public Health Emergency  
Waiver Request  
New Mexico Children, Youth and Families  
Department (CYFD)**

**State agency submitting waiver request:**

Children, Youth and Families Department  
Loren Miller  
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**Region:** Southwest Region

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

The Children, Youth and Families Department (CYFD)/Early Childhood Services Division (ECS), Family Nutrition Bureau (FNB) affirms that only eligible service institutions in good standing and have satisfied all legal and regulatory obligations with the State, and have no unresolved administrative review findings or pending adverse actions, will be considered to participate in this proposed waiver.

Please note, Children, Youth and Families Department (CYFD)/Early Childhood Services Division will become a separate agency from CYFD as of July 1, 2020. The CYFD / Early Childhood Services Division will be known as Early Childhood Education and Care Department (ECECD).

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

The challenges presented by the COVID19 Public Health Emergency has created unique challenges that require additional flexibility for At-Risk Centers. We wish to local At-Risk Centers to continue to meet the urgent need of childhood hunger in New Mexico by requesting At-Risk Providers to continue to operate continuously until September 30, 2020. New Mexico seeks to eliminate any disruptions to access to meals for children in vulnerable communities, as local conditions of rural and frontier areas still continue to present an insurmountable barrier to families in need. By allowing At-Risk Centers to operate continuously through September 30, 2020 New Mexico will be able to shift resources to adapt and respond quickly to the significant number of residents who have found themselves out of work and unable to provide healthy and nutritious meals.

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

§226.17a At-risk afterschool care center provisions:

(ii) Organizations must operate an eligible afterschool care program, as described in paragraph (b) of this section.

(iii) Organizations must meet the licensing/approval requirements in §226.6(d)(1).

(iv) Except for proprietary for-profit centers, at-risk afterschool care centers must be public, or have tax-exempt status under the Internal Revenue Code of 1986 or be currently participating in another Federal program requiring nonprofit status.

(2) Limitations. (i) To be reimbursed for at-risk afterschool snacks and/or at-risk afterschool meals, all organizations must:

(A) Serve the at-risk afterschool snacks and/or at-risk afterschool meals to children who are participating in an approved afterschool care program; and

(B) Not exceed the authorized capacity of the at-risk afterschool care center.

(ii) In any calendar month, a for-profit center must be eligible to participate in the Program as described in the definition of For-profit center in §226.2. However, children who only receive at-risk afterschool snacks and/or at-risk afterschool meals must not be considered in determining this eligibility.

(b) Eligible at-risk afterschool care programs—(1) Eligible programs. To be eligible for reimbursement, an afterschool care program must:

(i) Be organized primarily to provide care for children after school or on weekends, holidays, or school vacations during the regular school year (an at-risk afterschool care center may not claim snacks during summer vacation, unless it is located in the attendance area of a school operating on a year-round calendar);

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

The State of New Mexico CACFP is deeply committed to program integrity and monitoring of Sponsors. As many programs operate on year round basis for CACFP, current monitoring, reporting and review practices will be upheld and maintained during this timeframe.

**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]:**

The State of New Mexico has continued to respond to the COVID19 crisis by evoking all Nationwide Waivers offered to States.

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

Our State does not anticipate that the establishment of this statewide waiver will pose any challenges at the state or sponsor level. Alternatively, we anticipate this waiver will reduce challenges faced by at-risk sites and child care facilities that experience unanticipated challenges because of COVID-19. Children can still benefit from meal service and schools and Food Sponsors can use encumbered resources.

**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]:**

This waiver will not cost any additional administrative duties outside of the normal oversight that the USDA FNS already provides. Monitoring and oversight of organizations that would participate would be very similar to the monitoring and oversight received by existing organization that are participating in the program. Reimbursement rates would remain the same. There are no additional staff costs to implement this waiver.

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

The State of New Mexico requests to implement the waiver starting April 20, 2020 through September 30, 2020.

**Proposed monitoring and review procedures:**

State of New Mexico will utilize the existing program monitoring procedures as detailed in 7 CFR § 226.6.

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

The State of New Mexico will utilize existing frequency that is used within the FNS-44, and will report on children served, quantity of meals and quantity of snacks on a monthly basis.

**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]:**

**Public Notice:**

<https://cyfd.org/family-nutrition>

April 18, 2020. New Mexico Children, Youth and Families Department is seeking two waivers from the United States Department of Agriculture, Food and Nutrition Services. The purpose of these waivers is to support schools, child care facilities and communities in providing meals to children in areas affected as a result of the Public Health Emergency due to COVID 19. On March 11, 2020, New Mexico State Governor Michelle Lujan Grisham declared a State of Public Health Emergency for the State of New Mexico and the Cabinet Secretary for the New Mexico Department of Health issue a Public Health Declaration on March 12, 2020 to limit mass gatherings due to COVID-19. The first waiver would allow local At-Risk Centers to continue to meet the urgent need of childhood hunger in New Mexico by requesting At-Risk Providers to continue to operate continuously until September 30, 2020. The Second request is to waive Income Eligibility Requirements and reimburse meals at the Free rate for all child care providers in New Mexico who are providing services to First responders and essential workers who still depend on child care for their children.

**Signature and title of requesting official:**

**Children, Youth and Families Department**

 04/18/2020  
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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:**

Date Received: \_\_\_\_\_

- Check this box to confirm that the State agency has provided public notice in accordance with Section 12(1)(1)(A)(ii) of the NSLA

**Regional Office Analysis and Recommendations:**

- Recommend Approval
- Recommend Denial