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April 7, 2023

Gavin Northey  
Child Nutrition Program Manager  
Alaska Department of Education and Early Development  
Child Nutrition Programs  
PO Box 110500  
Juneau, AK 99811-0500

Dear Gavin Northey,

This letter is in response to the April 6, 2023, waiver request from the Alaska Department of Education and Early Development, Child Nutrition Programs (DEED CNP) to allow the Ayaprun School in Lower Kuskokwim School District in Newtok, Alaska, to serve meals in a non-congregate setting and allow meal pattern flexibility, effective immediately, due to partial building damage and closure.

DEED CNP is requesting a waiver under Section 12(l) of the National School Lunch Act (NSLA) [42 U.S.C. 1760] to provide non-congregate and meal service time flexibilities to Ayaprun School in Newtok, Alaska. Additionally, DEED CNP is requesting an exception to the requirement that Ayaprun School serve meals with at least two different types of fluid milk. Areas of the Ayaprun School have been temporarily closed due to safety concerns from a recent fire and burst pipes. During this closure, the school set up temporary classrooms in the gym area. Classes are being held in three, two-hour sessions every day. Students are not able to eat in the gym and class times are staggered, so the school is unable to have congregate feeding at normal school meal times. The school food authority (SFA) will be offering pre-packaged sandwiches, UHT milk, and 4 oz packaged fruit cups. Vegetables will be portioned and packaged and frozen at the SFA's central kitchen and delivered to the school.

Specifically, DEED CNP seeks to waive:

- Statutory requirements under the NSLA, 42 U.S.C. 1753(b)(1)(A) and the Child Nutrition Act, 42 U.S.C. 1773(b)(1)(A), which require National School Lunch Program (NSLP) and School Breakfast Program (SBP) meals to be served in a congregate setting and consumed by participants on site;
- Program regulations at 7 CFR 210.10(l) and 7 CFR 220.8(l), which require meals in the NSLP and SBP to follow meal service time requirements; and
- Program regulations at 7 CFR 210.10(d), and 7 CFR 220.8(d), which require the SFA to provide multiple choices of milk.

After reviewing the waiver request and confirming that DEED CNP has met the statutory requirements, FNS has determined that approval of this request would facilitate the

ability of the State and local educational agency (LEA) to carry out the purpose of the Programs. Therefore, effective April 7, 2023, through June 30, 2023, FNS approves DEED CNP's request for Ayaprun School to waive the requirements that NSLP and SBP meals must be served in a congregate setting and consumed by participants on site and that set meal-time parameters for school lunch and breakfast. While FNS is approving use of this waiver through June 30, 2023, FNS expects this waiver to be used only when needed.

Additionally, under NSLP and SBP regulations at 7 CFR 210.10(d)(2) and 220.8(d), if emergency conditions temporarily prevent a school that normally has a supply of fluid milk from obtaining delivery of such milk, the State agency may allow the school to serve meals during the emergency period with an alternate form of fluid milk or without fluid milk. If Ayaprun School is unable to obtain milk on a continuing basis, FNS approves the use of UHT milk only through June 30, 2023, or until the supply of milk has been restored.

As a reminder, Ayaprun School must continue to claim meals according to its approved Community Eligibility Provision claiming percentage.

The waiver authority at Section 12(l) of the NSLA requires FNS to review the performance of any State or eligible service provider that was granted a waiver. Therefore, by September 30, 2023, DEED CNP must provide to the FNS Western 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 meal service operations at participating sites;
- A description of whether the waiver resulted in improved services to children;
- A description of how the waiver reduced the quantity of paperwork necessary to administer the Program; and
- A summary of benefits and challenges associated with the waiver.

FNS appreciates DEED CNP's commitment to work with Lower Kuskokwim School District to meet the nutritional needs of children during a challenging time. If you have questions, please contact the FNS Western Regional Office.

Sincerely,

*(for)*  
Tina Namian  
Director  
School Meals Policy Division

[cc: Samantha Simien, NSLP Coordinator]