



SUMMER FOOD SERVICE PROGRAM

TEXAS POLICY

In Texas, organizations contracting directly with the Texas Department of Agriculture (TDA) to operate nutrition programs federally funded through the United States Department of Agriculture (USDA) are called Contracting Entities, or CEs. The Summer Food Service Program (SFSP) is a federally funded nutrition program and, as such, sponsors are considered CEs. CEs operating the Seamless Summer Option (SSO) should reference the Administrator's Reference Manual (ARM) Section 12, Seamless Summer Option, for guidance.

Each year, the USDA publishes the SFSP Administrative Guidance for Sponsors (AGS) which provides federal policy, program guidance and information for all CEs that participate or plan to participate in SFSP. TDA occasionally issues a Texas Policy that supplements federal policy found in the AGS.

SFSP Waiver Requests

On December 12, 2014, USDA issued policy memorandum SFSP-09-2015, [Summer Food Service Waiver Request Guidance and Protocol](#), which provides guidance on how CEs may request a waiver of SFSP requirements for TDA and U.S. Department of Agriculture (USDA) Food and Nutrition Service Regional Office (FNSRO) consideration and approval. USDA continues to enhance flexibility in the administration and operation of the SFSP in order to better serve participants. CEs requesting a waiver of SFSP requirements must provide a detailed justification and the request must adhere to Federal restrictions.

This TDA policy provides information on how a CE may submit a waiver request, using a waiver request form, to TDA for FNSRO review.

SFSP Waiver Requirements

All requests for a waiver of SFSP requirements must meet the following conditions:

- The waiver must support the purpose and intent of the SFSP
- The request must indicate that the CE provided notice and information to the public regarding the proposed waiver
- The request demonstrates that the waiver will not increase the overall costs of the SFSP to USDA
 - If it does increase the cost, the request must demonstrate how the cost will be paid from non-Federal funds.

USDA *may not* grant SFSP waivers for any of the following topics. A waiver request which addresses any of the topics below will not be considered. Topics include:

- The nutritional content of meals served
- Federal reimbursement rates
- Eligibility for free meals
- Disclosure of individual income eligibility information
- Prohibition of the operation of a profit producing program
- The commodity distribution program
- Enforcement of any constitutional or statutory right of an individual

Process for Requesting a Waiver of SFSP Requirements

In order to obtain permission from TDA and FNSRO to waive SFSP requirements, a CE's request to TDA should be submitted at least 60 days prior to the start of SFSP operations. This will allow for an adequate amount of time for TDA and FNSRO to review the request.

NOTE: SFSP CEs should use the *SFSP Waiver Request Form*, which can be found on the www.summerfood.org website under "Summer Feeding Administration & Forms," for submitting a waiver of SFSP requirements.

All requests submitted for FNSRO consideration and approval must include, at a minimum, the following information, which is included in the *SFSP Waiver Request Form*:

- Regulatory citation(s) and requirement(s) to be waived
- Description of alternative procedures
- Justification for request
- Anticipated impact on SFSP access
- Anticipated implementation date and time period for which waiver is needed
- Affirmation that CE has not experienced operational challenges in the past that would impede successful implementation of the waiver
- Proposed monitoring review procedures that will ensure proper oversight and integrity of the SFSP

CEs submitting a request for a waiver of SFSP requirements should submit their waiver request on the *SFSP Waiver Request Form* to TDA as follows:

Email to: SNPWaivers@TexasAgriculture.gov
Subject: SFSP Waiver Request (CE name)

Fax to: (888) 203-6593
ATTN: Food and Nutrition Program Specialist
Subject: SFSP Waiver Request (CE name)

Mail to: Texas Department of Agriculture
Food and Nutrition

ATTN: Food and Nutrition Program Specialist
P.O. Box 12847
Austin, Texas 78711

Overnight to: Texas Department of Agriculture
Food and Nutrition
ATTN: Food and Nutrition Program Specialist
1700 North Congress Avenue
Austin, Texas 78701

Waiver Request Approval/Denial

TDA or the USDA may determine that more information is required before a request to waive SFSP requirements can be processed. If more information is required, TDA will request the information from the CE and once the CE has provided the requested information to TDA, the information submitted will be considered. TDA will notify the CE of approval or denial of an SFSP waiver request.

If TDA and FNSRO approve the waiver of SFSP requirements, the CE will be expected to report to TDA on the outcome of the waiver implementation at the close of the SFSP year; TDA will notify the CE when the report should be submitted to TDA.

NOTE: Any SFSP waiver requests approved by FNSRO will be applicable only for the current SFSP year.

NOTE: CEs may not implement a waiver of SFSP requirements without receiving TDA and FNSRO approval first. A failure to meet SFSP requirements may result in the disallowance of meals and/or may lead to a serious deficiency determination of the CE's operation of the SFSP.