



OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

CEP Final Rule Waiver Information

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

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2. Region: MARO

3. Eligible service providers participating in waiver and affirmation that they are in good standing: All Local Educational Agencies (LEAs) administering the National School Lunch Program (NSLP), School Breakfast Program (SBP), and the Community Eligibility Provision (CEP) in Washington DC are in good standing and therefore any sites that opt to participate will be in good standing.

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]: FNS published a final rule for the Community Eligibility Provision (CEP) that lowered the minimum identified student percentage (ISP). Because the final rule was effective after the June 30 CEP election deadline for SY 2023-24, OSSE is requesting to waive the June 30 election deadline to allow LEAs to elect CEP mid-year. Permitting mid-year CEP elections allows newly eligible schools to participate in CEP during SY 2023-2024

5. Specific Program requirements to be waived (include statutory and regulatory citations). [Section 12(l)(2)(A)(i) of the NSLA]: The requirement that LEAs that intend to elect CEP in the following school year must notify the State agency and submit ISP documentation no later than June 30 of the current school year under Section 11(a)(1)(F)(x)(I) of the NSLA, 42 U.S.C. 1759a, and FNS regulations at 7 CFR 245.9(f)(4)(i)

6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring: Technology, specifically the CEP Portal, that allows SFAs to view and elect CEP, has been updated in anticipation of CEP elections for the 2024-25 school year. Therefore, there will be no additional impact to technology. OSSE will continue monitoring CEP as it always does by reviewing and approving anticipated CEP elections as well as reviewing CEP elections during Administrative Reviews.

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]: This waiver is requested due to the final rule for CEP that was published earlier this year. Due to the rule being published after the June 30 deadline, OSSE did not have the opportunity to take any steps around this regulatory barrier.

8. Anticipated challenges State or eligible service providers may face with the waiver implementation: CEP elections are done via an in-house automated calculation system. This system was designed and created based on the prior rule of a 40% ISP requirement, however, this system is updated and therefore is no longer a challenge. Additional participation may be limited due to the timing of this release as it is late in the school year.

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]: This waiver request will not increase funds to the federal government as CEP is an already existing program and will follow normal CEP operations and expenditures.

10. Anticipated waiver implementation date and time period: Implementation of approval of this waiver through June 30th, 2024.

11. Proposed monitoring and review procedures: OSSE will monitor CEP by reviewing and approving CEP elections, providing technical assistance and as well as reviewing CEP elections during Administrative Reviews.

12. Proposed reporting requirements (include type of data and due date(s) to FNS): OSSE will continue to follow the required reporting requirements such as publicly posting CEP eligibility to the website