

STEVE SISOLAK  
Governor

Las Vegas Office:  
2300 East St. Louis Ave.  
Las Vegas, NV 89104  
Telephone (702) 668-4590  
Fax (702) 668-4567



JENNIFER OTT  
Director

Elko Office:  
4780 East Idaho St.  
Elko, NV 89801-4672  
Telephone (775) 738-8076  
Fax (775) 738-2693

STATE OF NEVADA  
**DEPARTMENT OF AGRICULTURE**

405 South 21<sup>st</sup> St.  
Sparks, Nevada 89431-5557  
Telephone (775) 353-3601 Fax (775) 353-3661  
[agri.nv.gov](http://agri.nv.gov)

August 13, 2020

**Provision 2 Base Year Annualization for Sponsors operating during  
COVID-19 Waiver Request**

Nevada Department of Agriculture-Food and Nutrition Division

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

Nevada Department of Agriculture (NDA), Food and Nutrition Division (FND)  
Homa Anooshehpoor, Administrator, FND  
405 South 21<sup>st</sup> Street, Sparks, Nevada  
775-353-3625  
[hanooshehpoor@agri.nv.gov](mailto:hanooshehpoor@agri.nv.gov)

**2. Region:**

Western

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

The SFAs that would participate in this waiver are Nevada Provision 2 breakfast and/or lunch operators that are NSLP and SBP sponsors in good standing who conducted a base year during school year (SY) 2019-2020. This waiver would directly impact one (1) SFA that experienced extended unanticipated school closures during SY2019-2020 while conducting a Provision 2 base year.

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

Provision 2 base year calculations are derived from meal service participation by eligibility for each month during the base year. In Nevada, monthly claims are annualized to generate eligibility claiming percentages which are applied to subsequent non-base year claims.

Nevada Governor, Steve Sisolak, responded to the COVID-19 pandemic by announcing statewide school closures on March 15<sup>th</sup>, effective Monday, March 16<sup>th</sup>. As the pandemic continued, SBP and NSLP

operations ceased for the remainder of the school year for all schools, including those establishing a base year.

For SFAs electing Provision 2, conducting a base year requires additional meal counting practices not required after the base year. Having to redo a base year because of unanticipated school closures that affected approximately 52 days of meal service at the end of a school year would create unnecessary administrative burden for sponsors. Being required to re-establish claiming percentages due to impacts of COVID-19 is difficult during an already stressful time. If SFAs are unable to annualize claiming percentages based on existing data for SY2019-2020 and are required to re-establish a base year during SY2020-2021 they would be subject to base year data validation by the State agency (SA) during the ongoing pandemic. Establishing a base year during SY2020-2021, when closures may also be necessary, makes the new base year data invalid. Many SFAs experienced increased costs to their meals service programs during the unanticipated school closures. Base year validation would require copious amounts of additional workload from SFAs since the SA would likely be conducting the validation process remotely. Documentation, including student applications and claims data, would have to be scanned and uploaded into a secure server location. The validation process would cause even greater burden for SFAs in this situation.

The SA seeks to solve the challenge of insufficient end of year claiming data by requesting a waiver to annualize the available valid claiming data for SFAs who had elected to establish a Provision 2 base year during SY2019-2020. An approved waiver would also help the SA improve services under the program by avoiding the potential burden of data validation if an SFA is faced with reduced claiming percentages that resulted from the unanticipated school closures. Expected outcomes of the waiver include reduced financial impact to Provision 2 school meal programs and reduced administrative burden for SFAs in communities where students benefit from implementation of Provision programs.

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

NDA-FND requests a waiver to the requirements under 7 C.F.R.245.9(b)(3)(ii) in order to annualize base year calculations using only the months that participating children were counted and claimed by eligibility under SBP and/or NSLP meals prior to school closures due to COVID-19. This impacts 1 LEA that conducted a Provision 2 base year during SY 2019-20.

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

Standard meal counting and claiming operations were implemented from August 2019-March 2020, thus most of the school year was not impacted by unanticipated school closures. As such, NDA-FND will annualize the existing claim data for SY2019-2020.

NDA-FND does not anticipate any impact noted above.

**7. Description of any steps the State has taken to address regulatory barriers at the State level [Section 12(I)(2)(A)(ii) of the NSLA]:**

There are no regulatory barriers at the state level.

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

NDA-FND does not anticipate this waiver will present any challenges with implementation as it will reduce burdens and challenges to Provision 2 sponsors and SA staff by allowing SFAs to proceed with base year data calculated during unanticipated school closures due to COVID-19. It will allow the SA to proceed with establishing annual claiming percentages to be applied to non-base years using the available meal counts for the months that schools operated SBP and NSLP during SY2019-2020.

**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(I)(1)(A)(iii) of the NSLA]:**

NDA-FND does not anticipate any increase in the overall cost of the Program to the Federal Government since SBP and/or NSLP meals would be reimbursed by the annualized Provision 2 percentages. There are no additional staff costs to implement this waiver.

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

This waiver would impact Provision 2 base year breakfast and/or lunch meals counted and claimed under SBP and/or NSLP during SY2019-2020. The waiver would allow the annualization of the base year data to be used during the Provision 2 cycle as approved by the SA.

**11. Proposed monitoring and review procedures:**

NDA-FND will automatically calculate annual claiming percentages for use in non-base years for those sites that conducted a base year during SY2019-2020. The SA will continue to provide technical assistance and guidance to sponsors operating under Provision 2 as they navigate the COVID-19 outbreak.

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

NDA-FND will continue to report data to USDA as required.

**13. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(I)(1)(A)(ii) of the NSLA]:**

Link to web page where notice will be posted: <http://agri.nv.gov/Food/Food/>

Signature and title of requesting official:

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Homa Anoshehpour, PhD  
Administrator, Food and Nutrition Division  
Nevada Department of Agriculture  
775-353-3625

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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(I)(1)(A)(ii) of the NSLA**

• *Regional Office Analysis and Recommendations:*

Recommend Approval

Recommend Denial