

CHILD NUTRITION PROGRAM STATE WAIVER REQUEST
Oregon Department of Education Child Nutrition Programs

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(l) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(l), provides authority for USDA to waive requirements for State agencies or eligible service providers under certain circumstances. When requesting the waiver of statutory or regulatory requirements for the Child Nutrition Programs (CNP), including the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the National School Lunch Program (NSLP), the Fresh Fruit and Vegetable Program (FFVP), the Special Milk Program (SMP), and the School Breakfast Program (SBP), State agencies and eligible service providers should use this template. State agencies and eligible service providers should consult with their FNS Regional Offices when developing waiver requests to ensure a well-reasoned, thorough request is submitted. State agencies and eligible service providers are encouraged to submit complete waiver requests at least 60 calendar days prior to the anticipated implementation date. Requests submitted less than 60 calendar days prior to the anticipated implementation should be accompanied by an explanation of extenuating circumstances.

For more information on requests for waiving Program requirements, refer to SP 18-2018, CACFP 12-2018, SFSP 05-2018, *Child Nutrition Program Waiver Request Guidance and Protocol- Revised*, May 24, 2018.

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

Meghan Tschida
Manager, Community Nutrition Programs
Oregon Department of Education
255 Capitol St. NE Salem, OR 97310
meghan.tschida@ode.oregon.gov

2. Region: Western Region

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

This waiver is for the Oregon Department of Education Child Nutrition Programs (ODE CNP) Summer Food Service Program Administrative Reviews.

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]:

Summer Food Service Program (SFSP) Site Monitoring Waiver

March 2023

Goals:

1. To support program integrity and oversight of the Summer Food Service Program in FY 2023 through FY 2025, ODE CNP will implement the following plan:
 - a. Conduct on-site pre-approval visits for new sponsors and sponsors who were found Seriously Deficient and subsequently deferred in SFSP in FY 2022 and deferred in CACFP in FY 2023.
 - b. Conduct virtual, desk audit pre-approval visits for sponsors that have not operated due to the COVID-19 Pandemic during FY 2020, FY 2021, and/or FY 2022 but were in good standing in FY 2019.
 - c. Conduct on-site administrative reviews for sponsors who are new or have been identified with red flags and/or, integrity concerns.
 - d. Inspect FSMC facilities on-site for those that work with SFSP sponsors receiving an in-person review FY 2023.
2. To support the success of the ODE CNP staff assigned to SFSP through manageable workloads, improved staff and sponsor training and improved management oversight of SFSP reviews by waiving the requirement to annually review a number of sponsors whose program reimbursements, combined, accounted for at least one-half the total program meal reimbursements in the state the prior year.
3. To support sponsor success in the operation of the SFSP by providing flexibility to sponsors who are experiencing unprecedented staff shortages and a return to normal SFSP operations.

Challenge:

1. ODE CNP staff time:

- a. Training – due to the recent final rules and non-congregate meal service, SFSP training has been updated for ODE CNP staff to be able to perform renewals, technical assistance and administrative reviews.
- b. ODE CNP cannot feasibly implement administrative reviews, annual renewals and other oversight plans in the same manner as previous years due to the unpredictable operations of Oregon program operators. The state and federal waivers, streamlined and non-congregate rules have required major and frequent workflow changes on a continuous basis due to the unexpected impacts of the FNS waivers, guidance, etc. As Oregon has returned to non-COVID operations in schools and communities, unexpected challenges for sponsors and ODE CNP staff continue to arise.

2. Sponsor staff shortage and turnover

- a. As with the rest of the nation, Oregon continues to have an increase in the number of sponsors who continue to have high turnover, difficulty in hiring staff and staff absences. Turnover in the Food Program Coordinator role continues to be at an all-time high. This position is vital to the success of the implementation of the SFSP, as they oversee the day to day operations of the SFSP.

3. Return to “normal” SFSP operations

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- a. Since March 2020, SFSP sponsors and State Agency staff have operated under nationwide and state waivers, which drastically changed the way the Program was operated. While ODE CNP continues to provide virtual technical assistance, memos and trainings on the return to normal operations, many sponsors are still surprised to hear that nationwide waivers are no longer available. Due to the previous flexibilities, along with the new Final Rule, and non-congregate meal service option in rural areas, Oregon predicts a need for even more additional training and technical assistance for our sponsors to return to normal operations. This work will take additional staff time to develop training, quick reference guides and one-on-one technical assistance in addition to administrative reviews.
4. **Streamline Final Rule and Non-Congregate in Rural Areas**
 - a. ODE CNP has been working diligently to implement the required actions of the Final Rule and the Non-Congregate in Rural meals. Due to guidance from USDA being released recently on non-congregate meals in rural areas so close to the start of program operations, ODE CNP is quickly and effectively updating application/renewals documents and requirements, along with administrative review tools. This is also increased the training need for ODE CNP staff and sponsor staff.
5. **Increased reimbursement rate and one-half aggregate total reimbursement from prior fiscal year**
 - a. In the past ten years, reimbursement rates have continued to climb, making the aggregate total of reimbursement higher and higher each year, even when the number of meals served has been less overall. This substantially increases the number of reviews ODE CNP has to complete
 - b. In FY 2023, the team is scheduled to review 53 sponsors (without the aggregate amount being accounted for) totaling \$1,404,751.55 in total reimbursements from FY 2022. To meet the one-half the aggregate total staff would need to increase the number of reviews by 10 – 15 sponsors, and review many of the same sponsors that were reviewed in FY 2022.

Expected Outcome:

Sponsors will have continued support to provide nutritious meals.

To complete effective administrative reviews, on-site, for SFSP sponsors who have been identified by ODE CNP for an administrative review.

To provide effective and timely technical assistance to all sponsors operating the SFSP and to support the return to normal operations with new streamlined final rules.

To achieve improved compliance and integrity of SFSP Sponsors and improved ODE CNP staff workloads which improves employee success and satisfaction.

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Effectively implement SFSP Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program regulations and FY 2023 Non-Congregate Rural meal service guidance.

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

The Oregon Department of Education Child Nutrition Program (ODE CNP) request a waiver for the following:

State Agency Summer Food Service Program (SFSP):

[7 CFR 225.7(d)(1)] Pre-approval visits are conducted onsite.

[7 CFR 225.7(e)(4)(ii)] Annually review a number of sponsors whose program reimbursements, in the aggregate, accounted for at least one-half the total program meal reimbursements in the state the prior year.

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

For FY 2023, ODE CNP will conduct virtual pre-approval visits for sponsors who are returning to operations after COVID (FY 2020 – FY 2022) and that were in good standing as of FY 2019.

For FY 2023 – FY 2025 ODE CNP will conduct administrative reviews for SFSP institutions/sponsors that meet one for more of the following criteria:

- Current sponsors who are due for an administrative review
- New sponsors in first year of operations
- Current SFSP sponsors that did not operate in the previous fiscal year
- Sponsors that were declared Seriously Deficient and had the determination deferred in SFSP in FY 2022 and/or CACFP in FY 2023;
- Red flags that raise to the level of needing a review, such as claim issues or a complaint is filed with ODE CNP

Claim reviews - ODE CNP will continue to review all claim data submitted in CNPweb. If claims are flagged for a high number of meals claimed or different claiming patterns, ODE CNP management will work with the assigned Child Nutrition Specialist to determine the accuracy of the claim. If it is outside of the normal claiming patterns ODE CNP will conduct a claim review, focusing on claim edit checks. This is the current practice and there will be no change in this process.

ODE CNP does not anticipate an impact on technology.

7. **Description of any steps the State has taken to address regulatory barriers at the State**

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level. [Section 12(l)(2)(A)(ii) of the NSLA]:

There are currently no state-level regulatory barriers related to this waiver request.

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

ODE does not anticipate the establishment of this statewide waiver will pose any challenges at the state or sponsor level. This flexibility will ease the process for sponsors to provide meals to children while supporting them in the recovery of their operations from the effects of the pandemic and implementing new regulations.

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]:

ODE CNP does not anticipate that this waiver will increase the overall cost of the program to the Federal government.

10. Anticipated waiver implementation date and time period:

ODE requests to implement the waiver for pre-approval visits are conducted onsite immediately upon approval until September 30, 2023 and the waiver for annually review a number of sponsors whose program reimbursements, in the aggregate, accounted for at least one-half the total program meal reimbursements in the state the prior year effective immediately upon approval until September 30, 2025.

11. Proposed monitoring and review procedures:

ODE CNP will return to use of the on-site monitoring documents and to normal review procedures with the exception of the regulations requested in this waiver. See section 6 of this waiver request for additional details.

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

ODE CNP will report to FNS the following information by December 31st each year the waiver is in place:

1. The number of sponsoring agencies monitored under the waiver
2. The number of sites monitored under the waiver
3. The number of sponsors and sites that were approved to conduct site monitoring once during program operations.

13. Link to or copy of the public notice informing the public about the proposed waiver

[Section 12(l)(1)(A)(ii) of the NSLA]:

Oregon Department of Education : Summer Food Service Program (SFSP) : Summer Food Service Program : State of Oregon

14. Signature and Title of requesting official:



Name: Meghan Tschida

Title: Manager, Community Nutrition Programs
Oregon Department of Education

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:

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

Regional Office Analysis and Recommendations: