

**Oregon Department of Education  
Child Nutrition Programs  
CACFP For-Profit Centers**

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 15-2018, 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:**

Oregon Department of Education  
Child Nutrition Programs  
Lynne Reinoso  
Manager, Community Nutrition Programs  
255 Capitol Street NE  
Salem, OR 97310  
[lynne.reinoso@state.or.us](mailto:lynne.reinoso@state.or.us)

**2. Region:** Western Region

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

This waiver is limited to CACFP for-profit sponsors 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]:**

Due to statewide stay at home orders issued by Oregon Governor Kate Brown, and the Oregon governor's Executive Orders 20-08 and 20-12, the Oregon Office of Child Care (OCC) created a process for licensed child care providers, public schools, and employers or other entities to operate emergency child care facilities.

Child Nutrition Programs is requesting a waiver for minimum enrollment thresholds for CACFP for-profit centers due to changing enrollment factors with a focus on essential workers who may not meet the low-income requirements.

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

7 CFR 226.17(b)(4) Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20. For-profit child care centers may not claim reimbursement for meals served to children in any month in which less than 25 percent of the children in care (enrolled or licensed capacity, whichever is less) were eligible for free or reduced price meals or were title XX beneficiaries.

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

Oregon Child Nutrition Programs will provide detailed information and instructions to the CACFP for-profit institutions and sponsors on the waiver process; affected CACFP Sponsors will be required to apply for the waiver. The use of the waiver will be limited to the duration of the state-mandated stay at home and emergency child care orders as a result of COVID-19.

**Existing Sponsors**

- Be in good standing
- Located in an area experiencing a documented unanticipated school closure and provide state-authorized emergency child care service to essential workers
- Request the waiver from ODE CNP
- Sponsor must maintain this documentation
- Sponsor must continue to document eligibility

**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]:**

Several child care programs have indicated enrollment changes due to economic and employment shifts with families. This waiver would allow the state agency to waive the 25% minimum eligibility requirement and continue to reimburse claims at the annual blended rate established by the sponsor at the beginning of FY2020.

**Anticipated challenges:**

None. However, if this waiver is not approved eligible for-profit service emergency care providers may discontinue participating emergency child care programs due to potentially low meal reimbursement. This could result in a shortage of emergency child care programs available to emergency workers.

**8. 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]:**

There is no anticipated increase in costs to the federal government; despite the waiver if approved, we anticipate a drop in participation from what was expected previous to COVID-19.

**9. Anticipated waiver implementation date and time period:** During the COVID-19 pandemic from March 2020 through the remainder of the federal fiscal year, to be revisited if COVID-19 remains an issue.

**10. Proposed monitoring and review procedures:** ODE CNP does not plan on conducting any additional monitoring as a result of the waiver, but will require reporting on sites and meals. We may also review documentation from these meal services at a regularly scheduled CACFP review, such as meal count forms, production records, and cycle menus.

**11. Proposed reporting requirements:** ODE CNP will review final meal counts when they are submitted with claims for reimbursement in CNPweb, the state's CACFP Child Nutrition database. Additionally, ODE CNP will report this data in the FNS 44 reports as applicable and fulfill any additional WRO/FNS data requests.

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

<https://www.oregon.gov/ode/students-and-family/childnutrition/sfsp/Pages/default.aspx>

**13. Signature and Title of requesting official:**



Name: Lynne Reinoso

Title: Manager, Community Nutrition Programs, ODE CNP

Email address for transmission of response: [lynne.reinoso@state.or.us](mailto:lynne.reinoso@state.or.us)

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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:**

- 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:**