



Food and
Nutrition
Service

March 27, 2022

Braddock
Metro
Center

Dustin Melton
Director, Child Nutrition Programs
Oregon Department of Education
255 Capitol Street NE
Salem, OR 97310

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Dear Mr. Melton:

This letter is in response to the Oregon Department of Education Child Nutrition Programs' (ODE CNP) February 14, 2022, request to waive meal service time restrictions for sponsors in the Summer Food Service Program (SFSP). ODE CNP requested a statewide waiver of SFSP requirements under 7 CFR 225.16(c)(1) and (c)(2), which require minimum elapsed times between meal services and maximum durations of individual meal services. As discussed below, pursuant to the waiver authority granted at Section 12(l) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1760(l)), FNS approves ODE CNP's waiver request effective May 1, 2022, through April 30, 2023. FNS is also extending this flexibility to the National School Lunch Program Seamless Summer Option (SSO).

ODE CNP requested this statewide waiver that will expire on April 30, 2023, to provide a waiver of meal service time restrictions. This waiver would allow sponsors to streamline processes, control costs, and schedule meal service times that align with community activity programs and resources. ODE CNP states that denial of this waiver could increase administrative burden, increase costs for State systems, increase labor costs, exacerbate staffing shortages, have a negative impact on the ability to meet the needs of children and at-risk youth, and create the need for revisions of monitoring or training materials.

To grant a waiver under Section 12(l) of the NSLA (42 U.S.C. 1760(l)), the waiver must facilitate the purpose of the Program, the State must provide notice and information to the public regarding the proposed waiver, and the waiver must not increase the overall cost of the Program to the Federal Government. FNS finds that ODE CNP's waiver request does satisfy these statutory requirements.

Accordingly, FNS approves ODE CNP's request to waive meal service time restrictions for SFSP sponsors. This waiver is effective May 1, 2022, through April 30, 2023. FNS also extends these meal service time flexibilities to SSO operations for the duration of this waiver. Please note that while this waiver extends through part of the 2022-2023 school year, during the school year, SFSP operations are authorized only during unanticipated school closures. This waiver is applicable to regulations at:

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- 7 CFR 225.16(c)(1), which places Federal limits on the amount of time that must elapse between the beginning of one meal and the beginning of the next, and
- 7 CFR 225.16(c)(2), which places Federal limits on the duration of a meal service.

Sponsors are still required to comply with application requirements at 7 CFR 225.6(c)(2)(i)(B) and (c)(3)(i)(A) to establish meal service times for each site. Additionally, ODE CNP must ensure compliance with Program monitoring and review procedures at 7 CFR 225.7(d)(2) and (d)(3).

The waiver authority at Section 12(l) of the NSLA requires FNS to review the performance of any State or eligible service provider that was granted a waiver. Therefore, by September 30, 2023, ODE CNP must provide to the FNS Western Regional Office a written report quantifying the impact of the waiver for the respective Program year, as described below.

The report must include the following:

- A description of how the waiver impacted meal service operations at participating sites;
- A description of whether the waiver resulted in improved services to children;
- A description of how the waiver reduced the quantity of paperwork necessary to administer the Program; and
- The number of program operators that used the waiver.

FNS appreciates ODE CNP's commitment to work with sponsors to find efficiencies that balance the needs of local communities with cost-effective program management and integrity. If you have questions, please contact the Western Regional Office.

Sincerely,

Tina Namian
Acting Director
Policy and Program Development Division

Electronic Copy: Holly Prestegaard, WRO