

## **Operation of CACFP by Non-Area Eligible Sites**

Oregon Department of Education Child Nutrition Programs

Submitted August 10, 2020

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(1) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(1), 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  
Dustin Melton, Director  
255 Capitol St NE  
Salem, OR 97310  
503-947-5888

### **2. Region:** Western Region

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

This waiver is limited to CACFP sponsors in good standing to operate At-Risk Afterschool Program sites in non-area eligible areas.

**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]:**

Background:

On June 30, 2020, Oregon Governor Kate Brown extended Oregon's state of emergency due to the COVID-19 epidemic. The number of COVID-19 cases in the state continue to grow. As of August 6, 2020, Oregon has a total of 20,225 confirmed cases and 339 deaths. Due to the COVID-19 pandemic Oregon's economy has seen a dramatic loss in jobs since the pandemic began in March 2020. The unemployment rate for March was announced at a record low of 3.3 percent, but that data was collected March 17, prior to Governor Brown's executive order for people to stay home and certain businesses to close. The unemployment rate by the end of June 2020 had increased to 11.2 percent as the state lost thousands of jobs. In addition, more and more families applied for food benefits with an increase of over 20,000 SNAP cases from April to May.

Further, on July 29, Governor Brown implemented school health and safety metrics that counties must meet before a school can allow in-person instruction. At the current rate of infection across the state, it will be extremely challenging for any schools in the state to meet the metrics. As school sites may not be able to open, schools may continue to offer Emergency Child Care at school sites. These child cares may not be located at a site that will meet the area eligibility requirements, but will still be required to offer meals at no charge.

Challenge:

Feeding all children during a state of emergency, pandemic, or unanticipated school closures when they do not have access to nutritious meals; regardless of areas in which they reside. When emergencies occur, limiting family and community resources, Child Nutrition Programs can be a source of nutrition and relief. The need is not limited to areas with 50 percent or higher Free/Reduced populations. USDA recognized this was a need as on June 6, 2020 as it extended all state agency area eligibility waivers through August 31, 2020.

Goal:

To extend the previously approved USDA waiver to the area eligibility requirement to provide meals to eligible children aged 1-18 throughout the state of Oregon during the Public Health Emergency of COVID-19 using existing distribution systems available in and through CACFP in a manner that minimizes exposure to, and spread of, the COVID-19 virus.

Expected Outcomes:

Meals would be provided to children during a time of statewide and national emergency when traditional resources are limited.

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

7 CFR 226.17a (b)(iv) Except for *Emergency shelters* as defined in §226.2, be located in an eligible area, as described in paragraph (i) of this section.

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

ODE CNP will provide detailed information and instructions to CACFP sponsors on the waiver process. There are no impacts on technology, State systems, or monitoring. The use of the waiver will be limited to times of documented closures due to state and/or local shelter in place closures as a result of COVID-19.

**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]:**

ODE CNP has provided technical assistance to support sponsors in providing At-Risk meal programs in areas eligible by school site data; this eligibility limits the access these sponsors have in their communities. The national waiver on enrichment activities supports flexibility for these sponsors.

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

ODE does not anticipate that the establishment of this statewide waiver will pose any challenges at the state, sponsor or site level. Rather, ODE anticipates this waiver will relieve sponsors of the challenges presented by changing the established, successful methods currently in place for providing meals to their community during the COVID pandemic or state of emergency when many other factors in their lives will be fluid in reaction to local COVID conditions.

**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]:**

There is no anticipated increase in costs to the federal government; despite the waiver if approved, ODE CNP has experienced a drop in participation due to COVID-19 and anticipates this will continue. There are no additional state agency staff costs to implement this waiver. USDA previously approved Oregon's waiver to the area eligibility requirement for SSO/SFSP (effective March 18, 2020 through June 30, 2020 or the end of the federally declared public health emergency) and further provided a Nationwide extension of all individual state waivers (COVID-19: Child Nutrition Response #32) to waive the area eligibility requirement. The waiver extension expires August 31, 2020. Oregon is seeking an additional extension to the same waiver with a fixed expiration date.

**10. Anticipated waiver implementation date and time period:** The anticipated waiver implementation start date is September 1, 2020 and is to remain in effect through June 30, 2021.

**11. Proposed monitoring and review procedures:** ODE CNP staff will work with sponsors to ensure CACFP sponsor and site approvals align with ODE CNP current processes. Child Nutrition Specialists will monitor implementation of this waiver.

**12. Proposed reporting requirements:** ODE CNP will report to FNS the number of sponsors and sites that used this waiver, and the number of meals served under this waiver that were reported for reimbursement. ODE will report any additional information as required by FNS.

**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]:**

<https://www.oregon.gov/ode/students-and-family/childnutrition/Pages/COVID-19.aspx>

**14. Signature and title of requesting official:**



Name: Dustin Melton

Title: Director, Child Nutrition Programs, Pupil Transportation and Fingerprinting Unit  
Oregon Department of Education

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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:**