

SFSP/SSO Meal Service Extension
for Sponsor Operations during School Year 2020-2021
in consideration of the COVID-19 Pandemic

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(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:

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2. Region: Western Region

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

Any approved SFSP or SSO sponsor in good standing, operating a comprehensive distance learning model or hybrid (distance learning/on-site learning combination) due to the COVID-19 pandemic, in compliance with Executive Order 20-29, and county school health and safety metrics or in compliance with local LEA policies.

Sponsors that would operate under this statewide waiver are operating in communities where schools buildings are closed to students for all or part of the school week in connection with the COVID-19 outbreak. Through the application process ODE Child Nutrition will ensure sponsors have the capacity to meet program requirements.

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(1)(2)(A)(iii) and 12(1)(2)(A)(iv) of the NSLA]:

Background:

The Oregon Department of Education, as part of the Ready Schools, Safe Learners campaign is requiring all school sites to submit an Operational Blueprint for Reentry, a thorough plan of how each school will meet the education and nutrition needs of their students and address elements like public health protocols, operations, and equity. Before opening, every school must demonstrate to its community that it can operate while keeping staff, students, and families safe during a public health crisis and the resulting economic crisis.

Sponsors are experiencing critical shortages in staff, concern for high-risk staff and students, and suffering from the economic impact of simultaneous reduced revenue and increased operating expenses.

Oregon Governor, Kate Brown issued [Executive Order 20-29](#) READY SCHOOLS, SAFE LEARNERS: K-12 INSTRUCTIONAL ACTIVITIES AND THE PROVISION OF SCHOOL-BASED SERVICES DURING 2020-2021 ACADEMIC YEAR IN THE FACE OF THE ONGOING CORONAVIRUS (COVID-19) OUTBREAK effective on July 1, 2020. Included in that Executive Order:

Continuity of Educational Services. In order to receive allocations from the State School Fund, public schools shall:

- a. Provide for the sustained, equitable delivery of critical services to students and families, including but not limited to, food services, and social, emotional and mental health support consistent with ODE and OHA guidance. To the extent practical, these plans shall be developed in partnership with social service agencies, and community-based and culturally-specific organizations.

- b. Provide school meals, consistent with requirements provided by ODE, OHA and the U.S. Department of Agriculture. Transportation grant funds from the State School Fund may be used by public schools for delivery of meals using school district transportation services.

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 and will operate comprehensive distance learning models.

Challenge:

COVID-19 is having an inequitable impact on our communities, hitting those with existing food insecurity hardest. Oregon is a high-need state, with a historical food insecurity rate near 16%. Improvements (12.9% in 2015-17) before COVID-19 have been wiped out. Approximately 43,000 students have become eligible for free/reduced meal benefits since March, 2020.

The state of Oregon provides flexibility and choice to families for the education system their children participate in. The COVID-19 pandemic, with the highly variable nature of infection rates, adds a need for additional flexibility in response.

The combination of these flexibilities available for students in Oregon, the unpredictable nature of COVID-19, the governor's executive order to continue to provide meals, the governor's school health and safety metrics and the lack of decision-making authority faced by Nutrition Services present extreme challenges when planning NSLP meal services.

The NSLP regulations are designed for a static system, with consistent student enrollment and daily in-person meal service. Look to the existing guidance in NSLP for Benefits Issuance, Point-of Service, and Special Provisions regarding mid-year transfers and grade-attendance changes to understand how challenging the number of changes COVID-19 operations will present. The amount of variables School Nutrition Programs face in Oregon at this time is not well-suited to being able to operate NSLP.

Among them:

- Providing accurate enrollment records/benefit status per student to mobile POS operators (bus deliveries) with no electronic access when enrollment changes daily.
- Benefits Determinations during no-contact COVID-19 (physical meal applications)
- Denying a meal to hungry children who are not enrolled students
- Equitable communications during physical distancing when families have had no way to update information in student information systems due to building closures

Additionally, a complex program like NSLP/SBP operating with a number of specific waivers presents a training challenge when traditional training methods are not available due to COVID-19 operating restrictions. The SFSP and SSO programs can be implemented as-is, utilizing existing training to ensure compliance and program integrity.

Goal:

To provide meals to children 1-18 throughout the state of Oregon during the Public

Health Emergency of COVID-19 using existing distribution systems available in and through schools in a manner that minimizes exposure to, and spread of, the COVID-19 virus while providing stable access to the benefits of nutritious meals.

Expected Outcomes:

Sponsors would continue to provide meals to children during a time of statewide and national emergency when traditional resources are limited or inaccessible.

Communities and Nutrition Services staff would be able to focus on other challenges.

5. Specific Program requirements to be waived (include statutory and regulatory citations). [Section 12(1)(2)(A)(i) of the NSLA]:

ODE CNP is seeking a waiver to the requirement of “unexpected” school building closures and “unanticipated” school closures that enable sponsors/operators/SFAs to operate under the SFSP/SSO programs during distance learning and extend this current flexibility past the date of August 31, 2020. This is provided in the following USDA guidance:

ODE has been approved for a statewide waiver of the SFSP requirements of Section 13(c)(l) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1760(c)(l)) codified at 7 CFR 225.6(d)(l)(iv), which would allow the State to approve the operation of SFSP and SSO meal service at school sites during unanticipated school closures. This waiver is approved through April 30, 2022.

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

There are no impacts on technology, State systems, or monitoring. Currently, statewide closure of school buildings is mandated. COVID-19 metrics must be met for schools to open for in-person education.

7. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(1)(2)(A)(ii) of the NSLA]:

There are currently no State level regulatory barriers related to this specific issue.

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 schools of the need to alter meal operations continually through the school year as local conditions change.

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

ODE-CNP does not anticipate the establishment of this statewide waiver will increase the overall cost of the Program to the Federal Government. There are no additional staff costs to implement this waiver. The waiver will continue to assist SFSP/SSO sponsors and ODE-CNP to ensure access to meals

for all children that align with flexible learning models, school district/board restrictions, and maintain the safety and wellbeing of employees and students.

10. Anticipated waiver implementation date and time period:

The anticipated waiver implementation start date is August 30, 2020 or the district's first day of school operations not covered by existing waivers, whichever comes first. ODE CNP is requesting two separate approval options:

- a. Short-term approval through December 31, 2020 to allow schools with delayed start to continue serving their communities during rampant COVID-19 impact.
- b. Long-term approval through September 30, 2021 to allow continuity of service

11. Proposed monitoring and review procedures:

State agency staff will work with sponsors to ensure SSO/SFSP sponsor and site approvals align with ODE CNP current processes. Child Nutrition Specialists will monitor implementation of this waiver.

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

ODE CNP will continue to provide COVID-19 site information in the remarks section of the FNS-10 30/90 day reports.

ODE will report any additional information as required by FNS. This timeline would allow for approved sponsors to submit their claim within the 60-day claim period, and for ODE to complete the report.

13. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(1)(1)(A)(ii) of the NSLA]: See Public Notification section at this link:

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

Signature and title of requesting official:



Name: Damasita Sanchez

Title: Manager, School Nutrition Programs, ODE CNP

Email address for transmission of response: damasita.sanchez@state.or.us

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:**