



# Food and Nutrition Service

U.S. DEPARTMENT OF AGRICULTURE

December 20, 2024

Dustin Melton, Director

Child Nutrition Programs, Pupil Transportation, and the Fingerprinting Unit

Oregon Department of Education

255 Capitol Street NE

608 W. Allegan

Salem, OR 97310

Dear Dustin Melton:

This letter is in response to the Oregon Department of Education's (ODE's) November 20, 2024, request to waive National School Lunch Program (NSLP), School Breakfast Program (SBP), and Child and Adult Care Food Program (CACFP) requirements to allow school food authorities (SFAs) and institutions to offer non-congregate meals to participants fasting during Ramadan. Pursuant to Section 12(l) of the NSLA (42 U.S.C. 1760(l)), FNS approves some, but not all, of ODE's waiver request to allow SFAs and institutions to offer, to fasting participants in attendance during Ramadan, non-congregate meals for participants to consume at a time that honors their religious principles.

In its request, ODE indicated that approval of this waiver would benefit schools and sites that serve meals to participants who observe Ramadan; those schools and sites typically experience a significant drop in participation during Ramadan that could be mitigated by offering alternative meal service options. The waiver would also provide participants who observe Ramadan access to healthy and wholesome meals. FNS has determined that this waiver facilitates the purpose of the NSLP, SBP, and CACFP as participants are in attendance at a participating school or site and eligible to receive meals but are unable to consume them

during the day because they are fasting in observance of Ramadan. Furthermore, the waiver ensures all children have access to the nutrition they need.

Specifically, ODE requested a statewide waiver of the NSLP, SBP, and CACFP requirements explained below.

### **National School Lunch and School Breakfast Programs**

#### ***Non-Congregate Meal Service (NSLP and SBP)***

Under the NSLA, 42 U.S.C. 1753(b)(1)(A), and the Child Nutrition Act, 42 U.S.C. 1773(b)(1)(A), NSLP and SBP meals must be served in a congregate setting and must be consumed by participants on site.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the aforementioned requirements to serve meals through the NSLP and SBP in a congregate setting, to students who attend school and are fasting during Ramadan. Any other requirements referenced in these provisions remain in effect.

#### ***Meal Service Times (NSLP and SBP)***

Under program regulations at 7 CFR 210.10(l) and 220.8(l), meals served in the NSLP and SBP must follow meal service time requirements.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives, for non-congregate school lunches and breakfasts served to students who attend school and are fasting during Ramadan, the aforementioned requirements that set meal time parameters.

#### ***Offer Versus Serve (NSLP)***

Under the NSLA, 42 U.S.C. 1758(a)(3), and program regulations at 7 CFR 210.10(e), Program

operators of senior high schools (as defined by ODE) must participate in offer versus serve at lunch.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the requirements to serve non-congregate school lunches using offer versus serve for senior high school students who attend school and are fasting during Ramadan.

### **Child and Adult Care Food Program**

The waivers in this section apply to emergency shelters, adult day care centers, outside-school-hours care centers (OSHCC), and the at-risk afterschool care components of CACFP only. This statewide waiver does not apply to CACFP family day care homes or child care centers. However, per 7 CFR 226.3(e)(3), eligible service providers wishing to request waivers of the provisions in this section during Ramadan for use in either family day care homes or child care centers may submit a waiver for ODE concurrence, including rationale, and FNS will consider them on a case-by-case basis. Therefore, individual child care institutions must submit a waiver directly to ODE for review and concurrence. ODE must forward individual institutions' child care waivers to FNS for consideration.

### ***Non-Congregate Meal Service (CACFP)***

Under the NSLA, 42 U.S.C. 1766(f)(1)(A), CACFP meals must be served in a congregate setting and must be consumed by participants on site.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the requirements to serve meals through the CACFP emergency shelters, adult day care centers, OSHCC, and at-risk afterschool care component in a congregate setting, to participants who are in attendance at emergency shelters, adult day care centers, OSHCC, and at-risk afterschool care centers and fasting during Ramadan. Any other requirements referenced in these provisions remain in effect.

### ***Meal Service Times (CACFP)***

Under Program regulations at 7 CFR 226.20(k), meals served in the CACFP must follow meal service time requirements.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives, for non-congregate meals served to participants who are in attendance at an emergency shelter, adult day care center, OSHCC, or at-risk afterschool care center and fasting during Ramadan, the aforementioned requirements that set meal time parameters for CACFP at-risk emergency shelters, adult day care centers, OSHCC, at at-risk afterschool care centers. Any other requirements referenced in these provisions remain in effect.

ODE's waiver request also sought to waive the requirement that meals must be served to eligible children, under program regulations at 7 CFR 210.10(a), 7 CFR 220.2 (Breakfast), and 7 CFR 220.8(a). Under this waiver, only children in attendance at school are eligible to receive non-congregate meals during Ramadan. Therefore, FNS denies ODE's request to allow parents or guardians to pick-up meals; non-congregate school meals must be served directly to children in attendance at school on the day non-congregate meals are offered, although children are not expected to consume meals at that time.

Per ODE's request, this waiver is effective February 24, 2025, through April 11, 2025. To maintain Program integrity and accountability of local operators, ODE must work with SFAs and institutions operating under this waiver to ensure meals are distributed only to participants in attendance at the school or institution on the day non-congregate meals are offered, and that duplicate meals are not distributed to any participant. In addition, participation in the child nutrition programs is at an eligible participant's discretion; therefore, if a participant chooses to consume a meal or snack during the day, schools or institutions may not deny a meal or snack because the participant is thought to be fasting during Ramadan.

The waiver authority at Section 12(l) of the NSLA requires FNS to review the performance of any State or Program operator that was granted a waiver. Therefore, by September 30, 2025,

ODE must provide to the FNS Western Regional Office a report quantifying the impact of the waiver as described below.

The report must include the following:

- A description of how the waiver impacted NSLP, SBP, and CACFP meal service operations;
- A description of whether the waiver resulted in improved services to participants;
- A total number of SFAs and institutions affected by this waiver;
- A description of the outreach conducted to families and participants in impacted schools and institutions, and whether the outreach/information was available in multiple languages; and
- A description of how the waiver reduced the quantity of paperwork necessary to administer the Programs.

If you have questions, please contact the FNS Western Regional Office.

Sincerely,

for  
J. Kevin Maskornick  
Director  
Community Meals Policy Division