

**Operation of SFSP/SSO by Non-Area Eligible Sites  
during COVID-19 Unanticipated School Closure Waiver Request**

Oregon Department of Education  
Child Nutrition Programs  
Submitted March 15, 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:**  
Damasita Sanchez, Manager, School Nutrition Programs  
Child Nutrition Programs  
Oregon Department of Education  
255 Capitol St. NE Salem, OR 97310  
503-947-5625
  
- 2. Region:** Western Region
  
- 3. Eligible service providers participating in waiver and affirmation that they are in good standing:**

Any Oregon Department of Education (ODE) approved NSLP sponsors in good standing operating during an unanticipated school closure due to a COVID-19 outbreak. Eligible service providers also include eligible organizations who apply as defined under 7 CFR 225.14(b) to operate SFSP in order to ensure children can receive meals in their community during a COVID-19 outbreak. Through the application process ODE Child Nutrition will ensure sponsors have the capacity to meet program requirements and will fill a gap that would otherwise leave children without access to meals (e.g. a sponsor does not have capacity to provide enough meals or a previously approved sponsor organization does not exist in an area affected by a COVID-19 outbreak).

Sponsors and sites that would operate under this waiver are operating in communities where schools and/or community locations are closed in connection with a COVID-19 outbreak.

**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:

Oregon Governor, Kate Brown announced the statewide closure of all public K-12 schools from Monday, March 16 through at least Tuesday, March 31, 2020. Schools are experiencing critical shortages in staff, concern for high-risk staff and students, and following CDC pandemic control guidance for social distancing and increased sanitation measures.

Districts are tasked with developing plans to continue nutrition services during the statewide closure. Many districts are developing plans to continue education and nutrition services should the COVID-19 pandemic require extended containment measures.

Oregon Governor, Kate Brown declared a 60-day state of emergency on March 8, 2020 due to the COVID-19 virus. Colt Gill, Oregon Department of Education (ODE) Director, is a member of the Governor's Corona Virus Response Team, and urges ODE staff to seek waivers and resources that will help contain the spread of the virus.

At this time there are 36 positive test results for COVID-19 in the State of Oregon. There are 225 pending cases. The newest positive cases are examples of "community spread". The Oregon Health Authority (OHA) also believes that the disease is much more widespread in Oregon than the positive cases indicate.

The state of Oregon has two goals in regards to the virus:

- 1) To slow the spread of the virus enough to keep our health systems running so they can offer life-saving care to those who need it, when they need it.
- 2) To protect the elderly and the medically fragile. Vulnerable individuals are considered to be those over the age of 60 and children or adults with underlying conditions such as respiratory illness, cardiac disease, diabetes or obesity.

Challenge:

Feeding all children during a state of emergency, pandemic, or unanticipated school closures when they do not have access to nutritious meals. 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% or higher Free/Reduced populations.

Goal:

To provide meals to all students 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.

Expected Outcomes:

Meals would be provided to children during a time of statewide and national emergency when traditional resources are limited. Additionally, this waiver would allow sponsors operating under this waiver in school closure areas to utilize perishable foods that were encumbered for use in school meals programs.

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

The Oregon Department of Education (ODE) requests a waiver of regulations at 7 CFR 225.14 (c)(3) *“conducting a food service for children from areas in which poor economic conditions exist.”*

**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 all K-12 schools is mandated. If needed, ODE will verify school closure before approval of non-qualifying schools to operate SSO or SFSP during unanticipated school closure.

**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 by providing a method to offer meals to their community during unanticipated school closure.

**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]:**

The establishment of this statewide waiver will not increase the overall cost of the Program to the Federal Government since these programs would be operating in areas where schools are normally operating USDA Child Nutrition programs (NSLP/CACFP) but are closed due to COVID-19. There are no additional state agency staff costs to implement this waiver.

**10. Anticipated waiver implementation date and time period:**

The anticipated waiver implementation start date is March 16, 2020 and is to remain in effect through June 30, 2021 for SY 2020 and SY 2021.

**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):**

No later than July 15, 2021 ODE 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. 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/SNP/Pages/SeamlessSummer.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](mailto: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:**