

CHILD NUTRITION PROGRAM STATE 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(l) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(l), 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 18-2018, 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:

Meghan Tschida
Manager, School Nutrition Programs
Oregon Department of Education
255 Capitol St. NE Salem, OR 97310
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2. Region: Western Region

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

This waiver is for the Oregon Department of Education Child Nutrition Programs (ODE CNP) and for Summer Food Service Program Sponsors that are in good standing with ODE CNP.

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

Summer Food Service Program (SFSP) Site Monitoring Waiver

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Goals:

1. To support program integrity and oversight of the Summer Food Service Program in FY 2022, ODE CNP will implement the following plan:
 - a. Conduct on-site pre-approval visits for new sponsors and sponsors who were found Seriously Deficient and subsequently deferred in SFSP in FY 2021 and CACFP in FY 2022.
 - b. Conduct off-site pre-approval visits for sponsors that have not operated due to the COVID-19 Pandemic during FY 2020 and/or FY 2021, but were in good standing in FY 2019.
 - c. Conduct abbreviated in-person administrative reviews for sponsors who are new or have been identified with red flags and/or, integrity concerns,
 - d. Inspect FSMC facilities on-site for those that work with SFSP sponsors receiving an in-person abbreviated in FY 2022.
2. To implement a four year administrative review cycle FY 2022 – FY 2025.
3. To support the success of the ODE CNP staff assigned to SFSP through manageable workloads, improved staff and sponsor training and improved management oversight of SFSP reviews.
4. To support sponsor success in the operation of the SFSP by providing flexibility to sponsors who are experiencing unprecedented staff shortages and a return to normal SFSP operations.

Challenge:

1. ODE CNP Staff Time:

- a. Training – more than seven ODE CNP staff have never conducted an on-site Summer Food Service Program review, and the more experienced staff will need to be re-trained on conducting in-person administrative reviews after two years of virtual reviews.
- b. ODE CNP cannot feasibly implement administrative review, annual renewals and other oversight plans in the same manner as previous years due to the unpredictable operations of Oregon program operators. The state and federal waivers have required major and frequent workflow changes on a continuous basis due to the unexpected impacts of the FNS waivers, guidance, the pandemic, etc. As Oregon has begun to return to non-COVID operations in schools and communities, unexpected challenges for sponsors and ODE CNP staff continue to arise.

2. Sponsor staff shortage and turnover.

- a. As with the rest of the nation, Oregon continues to have an increase in the number of sponsors who continue to have high turnover, difficulty in hiring staff and staff absences. Turnover in the Food Program Coordinator role continues to be at an all-time high.

3. Return to “Normal” SFSP Operations

- a. Since March 2020, SFSP sponsors and State Agency staff have operated under

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nationwide waivers, which drastically changed the way the Program was operated. While ODE CNP continues to provide virtual technical assistance, memos and trainings on the return to normal operations, many sponsors are still surprised to hear that nationwide waivers are no longer available. Due to the previous flexibilities, Oregon predicts a need for even more additional training and technical assistance for our sponsors to return to normal operations. This work will take additional staff time to develop training, quick reference guides and one-on-one technical assistance in addition to administrative reviews.

Expected Outcome:

Sponsors will have continued support to provide nutritious meals during a time of national emergency when challenges are many and resources are limited.

To complete effective abbreviated administrative reviews on-site for SFSP Sponsors who have been identified by ODE CNP for an administrative review.

ODE CNP will successfully implement a four-year administrative review cycle that will provide more staff time to dedicate to technical assistance in supporting SFSP sponsors implement normal operations in FY 2022 and forward.

To provide effective and timely technical assistance to all sponsors operating the SFSP, to support the return to normal operations.

To achieve improved compliance and integrity of SFSP Sponsors and improved ODE CNP staff workloads which improves employee success and satisfaction.

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

The Oregon Department of Education Child Nutrition Program (ODE CNP) request a waiver for the following:

State Agency Summer Food Service Program (SFSP):

- [7 CFR 225.7(d)(1)]** Pre-approval visits are conducted onsite. (Note: requirement to conduct pre-approval visits is not waived.)
- [7 CFR 225.7(d)(2)(ii)]** Required reviews are conducted onsite.
- [7 CFR 225.7(d)(2)(ii)(D)]** Review every sponsor at least once every three years.
- [7 CFR 225.7(d)(2)(ii)(E)]** Conduct reviews at 10 percent of each sponsor's sites or one site, if that is greater.

Sponsoring Organization Monitoring Requirements (SFSP)

- [7 CFR 225.15(d)(3)]** Review food operations at each site at least once during the first four weeks of operations.

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

SFSP State Agency Alternative procedures for FY 2022:

For FY 2022 ODE CNP will conduct abbreviated administrative reviews for SFSP institutions/sponsors that meet one for more of the following criteria: with no fewer than 15 of the operating SFSP sponsors being reviewed:

New Sponsor in FY 2022

- Current SFSP sponsor that has not received an administrative review in four or more years, due to non-operation of the SFSP during the COVID-19 pandemic
- Sponsors that were declared Seriously Deficient and had the determination deferred in SFSP in FY 2021 and/or CACFP in FY 2022;
- Red flags that raise to the level of needing a review, such as claim issues or complaint is filed with ODE CNP

Meal Observation. The FY 2022 SFSP abbreviated administrative review for those identified above will focus on all regulatory required administrative review requirements, except, ODE CNP will only conduct a meal observation at one site of operation per sponsor.

Claim Reviews. ODE CNP will continue to review all claim data submitted in CNPweb. If claims are flagged for a high number of meals claimed or different claiming patterns, ODE CNP management will work with the assigned Child Nutrition Specialist to determine the accuracy of the claim. If it is outside of the normal claiming patterns, ODE CNP will conduct a claim review, focusing on claim edit checks. This is the current practice that ODE CNP follows and there will be no change in this process.

State Agency Four Year Review Cycle for SFSP FY 2022 – 2025

ODE CNP is requesting approval for a four year review cycle for the time frame of FY 2022 – 2025. This will align CACFP, SNP and SFSP cycles for ODE CNP.

- ODE CNP will conduct administrative reviews for all SFSP institutions and sponsoring organizations once every four years. ODE CNP anticipates that this will reduce the number of required reviews by 10 each year. ODE CNP will continue to conduct at least 15 percent of the total number of facility reviews on an unannounced basis.
 - ODE CNP will conduct administrative reviews for all SFSP institutions that were categorized as Seriously Deficient and the serious deficiency was deferred in the previous fiscal year.
 - ODE CNP will conduct administrative reviews for any sponsors identified as red flags or “in danger” of being seriously deficient, during any fiscal year regardless of their review cycle. ODE CNP has implemented this procedure for the past 16 years.

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- All new SFSP Sponsors will receive an administrative review in its first year of operation.

SFSP Sponsor Level Alternative Procedures:

For FY 2022, Oregon program operators in good standing may opt to waive 7 CFR 225.15(d)(3) which will allow sponsors' site reviews of the food service operation to be conducted once within the sites approved operating period, instead of the first four weeks of operation. The sponsor will submit the request(s) through an ODE CNP developed SmartSheet form. ODE CNP will automatically approve SFSP sponsors that opt in that are in good standing. SFSP Sponsors must opt in prior to utilizing the waivers.

ODE CNP does not anticipate an impact on technology.

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]:

There are currently no state-level regulatory barriers related to this waiver request.

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

ODE does not anticipate the establishment of this statewide waiver will pose any challenges at the state or sponsor level. This flexibility will ease the process for sponsors to provide meals to children while supporting them in the recovery of their operations from the effects of the pandemic.

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]:

ODE CNP does not anticipate that this waiver will increase the overall cost of the program to the Federal government.

10. Anticipated waiver implementation date and time period:

To be effective immediately upon approval until September 30, 2022.

11. Proposed monitoring and review procedures:

ODE CNP will return to use of the on-site monitoring documents and return to normal review procedures with the exception of the regulations requested in this waiver. See section 6 of this waiver request for additional details.

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

ODE CNP will report to FNS the following information by December 31st each year the waiver is in place:

1. The number of sponsoring agencies monitored under the waiver
2. The number of sites monitored under the waiver
3. The number of sponsors and sites that were approved to conduct site monitoring once during program operations.

13. Link to or copy of the public notice informing the public about the proposed waiver [Section 12(I)(1)(A)(ii) of the NSLA]:

14. Signature and Title of requesting official:



Name: Meghan Tschida

Title: Manager, Community Nutrition Programs
Oregon Department of Education

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: