

**SFSP/SSO Non-Congregate Feeding for Sponsors operating during
COVID-19 Unanticipated School Closures
Waiver Request**

Oregon Department of Education
Child Nutrition Programs
Submitted March 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:

Lynne Reinoso, Manager, Community Nutrition Programs
Child Nutrition Programs
Oregon Department of Education
255 Capitol St. NE Salem, OR 97310
503-947-5892

2. Region: Western Region

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

All Oregon Department of Education (ODE) approved SFSP or SSO sponsors in good standing would be eligible to serve non-congregate meals during an unanticipated school closure due to the COVID-19 virus.

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 declared a 60-day state of emergency on March 8, 2020 due to the COVID-19 virus. In addition Oregon lawmakers approved \$5 million for the COVID-19 virus response. <https://www.opb.org/news/article/oregon-coronavirus-ohsu-patient-tests-positive-covid-19-updates/>

Colt Gill, Oregon Department of Education (ODE) Directors, 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 14 positive test results for COVID-19 in the State of Oregon. That includes seven new presumptive cases. The newest cases are examples of "community spread". 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 — regardless of their age — would also be at a higher risk.

Challenge:

Feeding children during unanticipated school closures when they do not have access to, or adequate funds to pay for, nutritious meals. Social-distancing also helps with the control of the COVID-19 virus. SFSP and SSO regulations require consumption of meals at meal sites, which can increase the potential of exposure between program participants.

While schools are urged to remain open, the impact of the virus is still quite unknown and Oregon wants to be prepared in case of the closure of schools and other community locations such as Boys and Girls Clubs, Y's, child cares, etc. In such instances children will not have access to meals they would normally have at these locations throughout the day.

Goal:

To provide meals to participants in schools and other community organizations in a manner that minimizes exposure to, and spread of the COVID-19 virus, and to protect

vulnerable individuals from the virus.

Expected Outcomes:

Meals provided through a meal service that would allow meals to be taken away from approved SFSP and SSO sites and consumed elsewhere.

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 225.6(e) (15) that requires congregate feeding on site. This proposed waiver would be used in conjunction with a statewide waiver submitted by ODE to FNS WRO on March 10, 2020 (not yet approved.)

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

If approved, ODE will provide technical assistance to sponsors on process and procedures for planning, preparing and serving a unitized meal, and accurate meal counting and claiming. There are no impacts on technology, State systems, or monitoring. ODE CNP already has an online non-congregate request and meal reporting system in place as a part of its SFSP applications for years when FNS allows non-congregate meal service due to heat.

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 or sponsor or site level since schools and community sites operating under the waiver would essentially operate the same as during a normal school day. ODE has received waivers to approve sponsors to implement non-congregate meal service due to poor air quality during wildfires. Additional technical assistance from the state agency be required in trouble-shooting logistics that may be unique to each approved site.

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 situations where normal USDA Child Nutrition programs (NSLP/CACFP) 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 11, 2020 through June 30, 2020.

11. Proposed monitoring and review procedures:

ODE Child Nutrition Specialists and the team Manager will approve sponsor written requests to implement the waiver. 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, 2020 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. 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/sfsp/Pages/default.aspx>

Signature and title of requesting official:



Name: Lynne Reinoso

Title: Manager, Community Nutrition Programs, ODE CNP

Email address for transmission of response: lynne.reinoso@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:**

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