

## CHILD NUTRITION PROGRAM STATE WAIVER REQUEST TEMPLATE

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 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:**

Oregon Department of Education  
Child Nutrition Programs  
Lynne Reinoso  
Manager, Community Nutrition Programs  
255 Capitol Street NE  
Salem, OR 97310  
lynne.reinoso@state.or.us

**2. Region:** Western Region

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

Statewide waiver request for all participating SFSP Sponsoring Organizations in good standing.

**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]:**

The Oregon Department of Education Child Nutrition Programs (ODE CNP) is requesting a statewide waiver for the SFSP flexibility that was rescinded by FNS on October 11, 2018 as part of SFSP 01-2019. The flexibility is included within SFSP SP 10-2017, SFSP 06-2017, [Meal Service Requirements in the Summer Meals Programs, with Questions and Answers - Revised](#) December 5, 2016. The waiver of program regulations at 7 CFR 225.16(c)(1) for meal time as originally published in SFSP 11-2011, *Waiver of Meal Time Restrictions and Unitized Meal Requirements in the Summer Food Service Program*, October 31, 2011. Regulations require that three hours must elapse between meal service, except that four hours must elapse between lunch and supper if no snack is served. This policy waived these requirements, but maintained that sponsors must continue to establish meal service times.

This FNS waiver has benefitted Oregon SFSP sponsors in FFY 2019, as well as in prior years, by helping SFSP sponsors to operate efficiently the SFSP in a manner that aligns meal service times with the activity and other programming needs of each site. Since many Oregon sites are located in rural areas, programming is a crucial element that drives participation at meal sites. Sponsors adapt to the needs of communities they serve by establishing meal service times in coordination with space, activities, group size and sites such as pools to better serve their communities, and increase access to healthy meals. By allowing flexibility, sponsors will have greater ability to meet local needs and work with their own programmatic needs.

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

ODE CNP is requesting to waive the meal time restriction on the amount of time that must elapse between meal services, the time restrictions associated with supper, and the amount of time limited for each meal/snack service.

*7 CFR 225.16(c)(1) Three hours must elapse between the beginning of one meal service, including snacks, and the beginning of another, except that 4 hours must elapse between the service of a lunch and supper when no snack is served between lunch and supper. The service of supper shall begin no later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances. These waivers shall be granted only when the State agency and the sponsor ensure that special arrangements shall be made to monitor these sites. In no case may the service of supper extend beyond 8 p.m. The time restrictions in this paragraph shall not apply to residential camps.*

*7 CFR 225.16(c)(2) The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals.*

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

ODE CNP will not place time limits on the duration of a meal service and will have no requirements pertaining to the amount of time that must elapse between the beginning of one meal service and the beginning of the next. This will provide sponsors with greater flexibility to meet local and sponsor needs. SFSP sponsors will be required to establish accurate meal times for each site and provide this information to ODE CNP in the online site application. Sponsors are required to keep meal times and types current in the online site application. Meals must be served within the State-approved meal service times in order to be claimed for reimbursement and for the cost associated with such meals to be covered by Program funds.

**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]:**

Previously, ODE CNP has not needed to address any regulatory barriers as these flexibilities were in place.

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

ODE CNP does not anticipate these waivers will present any challenges to the SA or SFSP sponsors because these flexibilities have already been implemented and are in place. In fact, this waiver will decrease the challenges faced by Oregon SFSP sponsors.

The challenges ODE CNP and SFSP sponsors may face if the waiver is not approved include:

- Increased costs to ODE CNP to update the online software system to bring into compliance with the waiver rescission, including applications and claims
- Increased burden to ODE CNP to update training materials, monitoring materials re-train sponsors and staff, and monitor compliance for the rescinded flexibility
- Fewer healthy meals and snacks served to children. Loss of reimbursement revenues for meals and snacks as meal time restrictions may force SFSP sponsors to operate meal services at time that don't align with community activities and other needs.

**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 this waiver will increase the overall cost of the program to the Federal government. The waiver will continue to assist the SFSP sponsors and ODE CNP to ensure access to meal service sites that better align with individual site programming in the SFSP, and has been in place for years.

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

To be effective with the start of FY 2020.

**11. Proposed monitoring and review procedures:**

ODE CNP will continue to follow standard SFSP review procedures. Sponsors found to have non-compliance issues as related to this waiver will work with the state agency on an individualized corrective action plan and will have follow-up reviews scheduled as needed.

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

ODE CNP will report to FNS any compliance issues noted with this flexibility during the approvals and reviews by October 1 each year.

**13. Link to or copy of the public notice informing the public about the proposed waiver [Section 12(l)(1)(A)(ii) of the NSLA]: To be published by 12/27/19**

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

**14. 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(l)(1)(A)(ii) of the NSLA**

- **Regional Office Analysis and Recommendations:**