



Child Nutrition Program

State Waiver Request for OVS in SFSP

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:

Utah State Board of Education, Child Nutrition Programs
Kathleen Britton, Child Nutrition Director
kathleen.britton@schools.utah.gov
801-538-7513
250 East 500 South
Salt Lake City, UT 84111-3204

2. Region:

Southwest Regional Office

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

For Utah State Board of Education (USBE) Child Nutrition Programs experienced and approved sponsors operating Summer Food Service Program (SFSP) in good standing (i.e.



not in withholding, and has not exhibited any egregious errors in regards to running the program).

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 USBE Child Nutrition Section is requesting a state-wide waiver for Summer Food Service Program (SFSP) flexibilities and policies that were rescinded by the USDA Food and Nutrition Services (FNS) on October 11, 2018, through SFSP 01-2019 Summer Food Service Program Memoranda Rescission. The impact and challenges faced as a result of the rescinded flexibilities and policies to the USBE Child Nutrition Section and Utah sponsors are detailed below.

Offer versus Serve

FNS implemented the offer versus serve (OVS) option 43 years ago to allow operators to tailor portion sizes to individual appetites and nutrition needs. Research shows that the OVS provision decreases plate waste while maintaining nutritional benefits.

Offer versus serve does not impact the nutritional integrity of summer meals; it does, however, allow for a tailored approach to meet the nutritional needs of children, allow choice in meal selection for children, minimize food waste and reduced food cost. Over 90% (68 of 74) of SFSP sites are operating year-round as a National School Lunch Program, or At-risk Afterschool Meal Program sites where OVS is a meal service option. Many of the participants and staff of the summer sites are familiar with OVS from other child nutrition programs.

The goal of this waiver is to reinstate the rescinded flexibilities and policies to allow for efficient and cost-effective program management and reduce administrative burden for sponsors and the USBE Child Nutrition Section.

Approval of this waiver will allow the USBE Child Nutrition Section and Utah sponsors to continue implementing streamlined measures for effective program management and operation. In addition, if approved, the USBE Child Nutrition Section will not be required to spend additional funds and staff time to update technology systems, revise state-wide training, and review procedures which would exceed the amount of administrative funds provided to our agency to administer the program as a whole.

Utahns Against Hunger, a partner organization leading efforts to connect families and individuals to food resources so no Utah child goes hungry, supports this waiver.

5. Specific Program requirements to be waived (include statutory and regulatory



citations). [Section 12(l)(2)(A)(i) of the NSLA]:

The USBE Child Nutrition Section is requesting all flexibilities and policies rescinded in SFSP 01-2019 be reinstated. The individual regulations to be waived are outlined below:

Current regulation to be waived: 7 CFR 225.16(f)(1)(ii) “offer versus serve. School food authorities that are program sponsors may permit a child to refuse one or more items that the child does not intend to eat. The school food authority must apply this “offer versus serve” option under the rules followed for the National School Lunch Program, as described in part 210 of this chapter. The reimbursements to school food authorities for program meals served under “offer versus serve” must not be reduced because children choose not to take all components of the meals that are offered.”

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

Description of Alternate Procedures: Offer versus serve (OVS) will be extended to non-school food authority sponsors in good standing in an effort to simplify program administration and reduce food waste and costs while maintaining the nutritional integrity of the SFSP meals. All SFSP sites, regardless of location or type of sponsorship, may utilize OVS for breakfast, lunch, and supper meals. All non-school food authority sponsors electing to use OVS and school food authorities participating in SFSP and electing to follow the SFSP meal patterns must follow the SFSP OVS requirements outlined in SFSP 05-2016 Meal Service Requirements in the Summer Meal Programs, with Questions and Answers, Nov. 12, 2015. Sponsors will indicate which sites and which meals served at that site will utilize OVS when completing their site information sheet in the state technology system.

Anticipated impact on Program operations, including technology, State systems, and monitoring: This waiver will significantly decrease administrative burden, allow for efficient and effective oversight of program operations, reduce food costs and food waste, and allow sponsor organizations to meet the needs of their communities and participating children. The USBE Child Nutrition Section will continue to ensure program integrity through technical assistance visits, administrative reviews, and training. In addition, no change will need to be made to current technology systems as a result of this waiver. Approval of this waiver will be cost neutral for USBE Child Nutrition.

If this waiver is not implemented, the following impact on program operations will likely occur:

- Increased costs to the USBE Child Nutrition Section to update software systems to comply with regulation changes. Updates to software will affect the application and compliance modules.



- Significant impact on the USBE Child Nutrition Section staff time and effort and increased cost to update training and technical assistance materials, re-train sponsor and site staff, and monitor compliance with rescinded flexibilities and policies.
- Increased food costs and food waste for non-school food authority sponsors that no longer have the option to implement offer versus serve.
- Loss of choice for children in meal selection, resulting in decreased participation and an increase in childhood hunger in Utah.

7. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(l)(2)(A)(ii) of the NSLA]:

The flexibilities and policies rescinded by the USDA FNS on October 11, 2018, through SFSP 01-2019 Summer Food Service Program Memoranda Rescission will increase administrative burden and create barriers to program access and effective program operation. To address these barriers, the USBE Child Nutrition Section is submitting this wavier. The USBE Child Nutrition Section provides a variety of training modalities to ensure OVS is understood and implemented correctly at the sponsor and site level for all sponsor types, both SFA and non-SFA. These methods include annual in person training, online training videos, site staff self-study guides, and one on one sponsor technical assistance visits. The USBE Child Nutrition Section also utilizes lean principles to implement streamlined measures and continuous process improvement for the program.

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

There are no anticipated challenges with wavier implementation. Internal processes and procedures are already in place to ensure program integrity.

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(l)(1)(A)(iii) of the NSLA]:

There is no anticipated impact on Federal administrative costs for State Agency oversight with implementation of this wavier.

10. Anticipated waiver implementation date and time period:

This waiver will be implemented immediately upon approval from USDA and is to remain in effect through April 30, 2024, in the event of unanticipated school closures.

11. Proposed monitoring and review procedures:



Sponsors and sites will continue to be monitored by the USBE Child Nutrition Section as outlined in 7 CFR 225.7 (2)(ii)(B). Standard review procedures will continue to be followed; if noncompliance is identified, the USBE Child Nutrition Section will implement a corrective action plan and conduct follow-up reviews, as needed.

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

The USBE Child Nutrition Section will provide FNS with required reports, including review findings and technical assistance provided and survey results showing impact on improved services and streamlined administrative requirements. This information will be available annually.

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

<https://schools.utah.gov/cnp/sfsp?mid=1218&tid=5>

14. Signature and title of requesting official:

Kathleen Britton

Name: Kathleen Britton

Title: Director, Child Nutrition Programs

Requesting official's email address for transmission of response:

kathleen.britton@schools.utah.gov

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: