



Food and
Nutrition
Service

February 26, 2020

Braddock
Metro Center

Ms. Kathleen Britton
Director

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Braddock
Place
Alexandria
VA 22314

Child Nutrition Programs
Utah State Board of Education
250 East 500 South
Post Office Box 144200
Salt Lake City, UT 84114-4200

Dear Ms. Britton:

This letter is in response to the Utah State Board of Education's Child Nutrition Programs' (USBE CNP) December 16, 2019 request to waive the offer versus serve (OVS) restrictions for sponsors in the Summer Food Service Program (SFSP). USBE CNP requested a statewide waiver of SFSP requirements under 7 CFR 225.16(f)(1)(ii) to allow non-school food authority (SFA) sponsors to utilize OVS, which allows children to decline some of the foods offered in a reimbursable breakfast, lunch, or supper. USBE CNP also requested to allow SFA sponsors operating SFSP to use the OVS meal service parameters for the SFSP, described below. Under the waiver authority granted at section 12(l) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1760(l)), FNS approves USBE CNP's waiver request through April 30, 2022, or until FNS publishes a final regulation that supersedes this approval, whichever comes first.

USBE CNP requested a statewide waiver to continue to provide OVS flexibilities, previously approved in a FNS nationwide waiver that has been rescinded, to all sponsors utilizing OVS starting program year 2020 and continuing until April 30, 2022. USBE CNP reports that use of OVS helps sponsors operate the SFSP in a more cost effective manner by decreasing food costs and food waste. USBE CNP also reports that OVS improves meal satisfaction, which increases program participation. USBE CNP has fully integrated OVS into sponsor and site applications, monitoring, and trainings. USBE CNP anticipates that denial of this waiver would require updating training and monitoring materials, and retraining sponsors and staff. USBE CNP also anticipates that denial of the waiver would lead to increased food costs for sponsors. USBE CNP proposes to protect program integrity by continuing to follow their standard review procedures, which require a corrective action plan and follow-up reviews for sponsors found to be non-compliant.

FNS approves USBE CNP's request to allow use of SFSP OVS meal service parameters by both non-SFA and SFA sponsors in good standing, as determined and documented by USBE CNP; this waiver is effective immediately and valid through April 30, 2022, or until FNS publishes a final regulation that supersedes this approval, whichever comes first. This waiver is applicable to regulations at 7 CFR 225.16(f)(1)(ii), which limit use of OVS to SFAs and require sponsors to apply OVS under the rules followed for the National School Lunch Program.

To implement OVS under this waiver, sponsors must use the following meal service parameters:

- *Breakfast:* The following four food items must be offered:
 - One serving of fruit/vegetable,
 - One serving of bread/bread alternate,
 - One serving of fluid milk, and
 - One additional serving of fruit/vegetable, bread/bread alternate, or a serving of a meat/meat alternate.
 - All the food items offered must be different from each other.
 - A child must take at least three of any of the four food items offered and may choose to take all four items.
- *Lunch or Supper:* The following four food components must be offered through at least five different food items:
 - One serving of meat/meat alternate,
 - Two servings of fruit and/or vegetables (two different food items),
 - One serving of bread/bread alternate, and
 - One serving of fluid milk.
 - All the food items offered must be different from each other.
 - A child must take at least three food components and may choose to take all five items.
- Lunch or supper OVS requirements differ from breakfast in that a child must take at least three food components, rather than items, listed above from the five food items offered. Three food components are required for an adequate nutritious meal for children.
- Offering two servings of the same food item is not permissible under OVS in SFSP. All food items offered must be different from each other. For example, a breakfast menu that includes a serving of milk, a serving of fruit, and two servings of toast is not a reimbursable meal under OVS in SFSP because the toast is two of the same food item. Similarly, if the breakfast menu included two different kinds of cereal rather than toast, it would still not be a reimbursable meal because the cereals, although not identical, are the same food item. Additionally, a larger food item that is worth two servings in weight, such as a two-ounce muffin, counts as only one food item under OVS in SFSP, not two.
- Servings of all food items must adhere to the serving sizes in the SFSP meal patterns at 7 CFR 225.16(d).

The waiver authority at section 12(l) of the NSLA requires FNS to review the performance of any State or eligible service provider that was granted a waiver. Therefore, by both December 31, 2020 and December 31, 2021, USBE CNP must provide to the FNS Southwest Regional Office a written report quantifying the impact of the waiver for the respective program year, as described below. **Please note that the continuation of this approval in program year 2021 is contingent on USBE CNP's ability to provide complete data and an analysis of the waiver impact for program year 2020.**

The report must include the following:

- A description of how the waiver impacted meal service operations, children's access to nutritious meals, and participation in SFSP;
- A description of how the waiver impacted the quantity of paperwork necessary to administer the program;
- The total number of non-SFA sponsors that used the waiver;
- The total number of SFA sponsors that used the waiver;
- The total number of sites under non-SFA sponsors that used the waiver and the total (aggregate) number of meals served at those sites;
- The total number of sites under SFA sponsors that used the waiver and the total (aggregate) number of meals served at those sites; and
- Report of compliance issues noted with this flexibility during on-site reviews, as well as any technical assistance provided.

FNS appreciates USBE CNP's commitment to work with sponsors to find efficiencies that balance the needs of local communities with cost-effective program management and integrity. If you have questions, please contact the Southwest Regional Office.

Sincerely,



Angela M. Kline
Director
Policy & Program Development Division

Electronic Copies: James Abraham, SWRO
Hafsa Zahid, USBE CNP