

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
Meghan Tschida
Manager, Community Nutrition Programs
255 Capitol Street NE
Salem, OR 97310
meghan.tschida@ode.oregon.gov
[\(971\) 701-9004](tel:(971)701-9004)

2. Region:

Western Region Office

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

All Oregon Department of Education Child Nutrition Program (ODE CNP) approved CACFP FDCH Sponsors 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]:

Over the last seventeen years, USDA requirements surrounding the CACFP have steadily and significantly increased without proportionate increase of administrative funding for sponsoring organizations.

Oregon has three Family Day Care Home sponsors, all located on the I-5 corridor (Portland, Salem, Medford). These sponsors do not serve outside of sponsor identified service areas, which are near the corridor, which is leaving Central and Eastern Oregon without a Family Day Care Home Sponsor as of September 30, 2023.

Oregon is a vastly rural state, with pockets of urban areas. Ten counties in Central and Eastern Oregon are considered frontier, while the other counties are considered rural.

Oregon sponsors have cited that without a virtual monitoring option, there will be an increase in administrative costs, loss of sponsor staff due to safety concerns, and they will no longer be able to provide services in Central and Eastern Oregon.

Oregon Child Development Coalition (OCDC), located in southern Oregon, currently is the only Sponsor who oversees providers in the Central and Eastern Oregon locations. During the pandemic, and after the termination of the sponsor that served this area, OCDC began to provide the CACFP to providers in Central and Eastern Oregon through the use of virtual monitoring. For the past three years, OCDC has attempted to hire monitors in Malheur and Deschutes Counties to continue to serve providers in these counties and surrounding areas after the end of the COVID-19 Nationwide Waivers. OCDC has been unsuccessful in finding employees to conduct monitoring. For OCDC to travel from Medford, OR to Malheur County, it would take over seven hours, to travel one-way. This becomes an administrative burden financially, that without this monitoring waiver, the sponsor would cease offering services in multiple counties.

ODE CNP has been unsuccessful in finding organizations that are willing to become a sponsor in Eastern and Central Oregon with the administrative funding available and the cost of monitoring. Oregon will lose 58 providers that serve over 850 children enrolled in the CACFP due to the loss of virtual monitoring. Additionally, we are aware of more than ten providers who are wanting to come on to the program, but have been told no, because a FDCH Sponsor is not available in their community.

All three of Oregon's Family Day Care Home Sponsors have been successful in using virtual monitoring through the course of the pandemic. Previously, OCDC used the following procedure for unannounced virtual visits, a provider is called no more than fifteen minutes and no less than five minutes before a scheduled meal service, for the provider to have time to prepare for a device to be used during the meal service. Required documents are

provided via email or shown during the virtual visit. If there is not a meal service involved, the phone call is a cold call, where there is no prior notification. Missed virtual visits are not counted towards the required number of reviews, nor do visits where only the provider's children are present.

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

- 7 CFR 226.16(d)(4)(iii) Frequency and type of required reviews
 - Specifically that all three reviews must be conducted on-site
- Guidance Memo and Attachment: CACFP 07-2023

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

For homes 100 miles or two hours or more from the sponsor's office:

ODE CNP is requesting that two of the three required monitoring visits be conducted virtually for providers whose home is outside of a 100 mile radius or more than two hours from the FDCH Sponsoring Organization's office. One virtual visit will be required to be unannounced. The on-site visit will be required to be unannounced and a meal observation is required in person.

Each sponsoring organization will submit to ODE CNP a monitoring procedure to include: how they will conduct site-monitoring visits; one of the virtual visits will be unannounced and one visit will be unannounced in person, the other virtual visit will be either unannounced or announced, to the sponsors discretion.

For homes less than 100 miles or two hours or more from the sponsor's office:

ODE CNP is requesting one of the three monitoring visits to be conducted virtually for providers who are less than 100 miles or two hours from the sponsor's office. This visit must be announced.

For all sponsors:

ODE CNP will require written approval of the sponsor monitoring procedure to include how virtual monitoring visits will be conducted, via video (either Zoom, Microsoft Teams, FaceTime or Google Duo). The procedure will include how sponsors will ensure visits are complete and how they will address provider(s) that miss their unannounced visits. Additionally, the procedure will demonstrate how and when a monitor will determine if a provider will be determined seriously deficient due to missed virtual visits, in addition to other regulatory reasons for serious deficiency determination.

All other monitoring requirements will be followed as required. Pre-Approval visits and four-week visits will be conducted in person for new providers. Serious Deficiency follow-up reviews will be conducted in person.

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]:

ODE CNP does not anticipate any regulatory barriers at this time. Oregon's Governor's Office, the Department of Early Learning and all three Family Day Care Home Sponsors encourage and support the written waiver.

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

All three Family Day Care Home sponsoring organizations have completed virtual monitoring over the course of the pandemic and have been successful in doing so.

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]:

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

10. Anticipated waiver implementation date and time period:

Requested Start date: Upon Approval.

Requested End date: September 30, 2024, with an opportunity to request for an extension of the request.

11. Proposed monitoring and review procedures:

ODE CNP will host a training to discuss virtual monitoring requirements for Family Day Care Home Sponsors. ODE CNP will provide technical assistance on conducting virtual reviews via video conferencing. Sponsors found to have compliance issues as related to this waiver will work with the state agency on an individualized corrective action plan. Documentation of waiver activities will be maintained in the state system.

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

By December 31, 2024, ODE CNP will report the number of CACFP sponsors participating in this waiver, as well as challenges and successes associated with this waiver.

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://www.oregon.gov/ode/students-and-family/childnutrition/cacfp/Pages/Community%20Nutrition%20Programs.aspx>

14. Signature and title of requesting official:



Name: Meghan Tschida

Title: Manager, Community Nutrition Programs, ODE CNP

Email: Meghan.tschida@ode.oregon.gov

Phone: 971-701-9004

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:**