

STATE WAIVER REQUEST TEMPLATE CHILD NUTRITION PROGRAM

State agencies are encouraged to use this form to submit waiver requests to the Food and Nutrition Service (FNS) Regional Offices. States should consult with FNS when developing waiver requests to ensure an accurate, thorough request is submitted. States are encouraged to submit waiver requests at least 60 calendar days prior to the anticipated implementation date. Requests submitted less than 60 calendar days prior to implementation should be accompanied by an explanation of extenuating circumstances.

For more information on requests for waiving program requirements, refer to SP 27-2017, CACFP 12-2017, SFSP 08-2017, Child Nutrition Program Waiver Request Guidance and Protocol, April 26, 2017.

1. State agency submitting waiver request and responsible state agency staff contact information

State agency: California Department of Education (CDE) Nutrition Services Division

State agency staff: Jeannine Cook, Staff Services Manager I, Summer Meals Unit

Phone: 916-322-2146

Email: jcook@cde.ca.gov

2. Region

Western Region

3. Program operator(s) participating in waiver and affirmation that they are in good standing

The CDE asks that this waiver request apply to program operators that are in good standing but unable to immediately comply with the rescinded waivers published by the U.S. Department of Agriculture (USDA) Policy Memorandum SFSP 01-2019. Program operators have been notified of the rescinded waivers but will be required to request approval from the CDE on a case-by-case basis if they are unable to operationally implement procedures to conform to the regulations. The CDE is requesting authority to grant approval to the affected program operators.

4. Description of the challenge the state agency is seeking to solve

On October 11, 2018, the USDA issued Policy Memo SFSP 01-2019, which rescinded the previously issued waiver of SP 10-2017, SFSP 06-2017, Meal Service Requirements in the Summer Meal Programs, with Questions and Answers—

Revised, which limited the use of offer versus serve (OVS) to school food authority (SFA) program operators.

Most non-SFA program operators in California will be able to comply with the regulatory requirement and will not be serving OVS. However, there are non-SFA program operators which will have difficulty not providing meals unless they can use OVS. More specifically, California has a few summer programs which use college and university cafeterias to provide the students a meal. The number of program operators operating in this fashion are very limited (less than 2 percent of Summer Food Service Program [SFSP] Operators). However, it would be very difficult for these programs to provide meals without OVS without having to procure additional storage and transportation for the meals and increasing staffing costs. Without this waiver, some operators will drop the SFSP and children will not have access to healthy meals during the summer months.

5. Specific program requirements to be waived (include regulatory citations)

Title 7, *Code of Federal Regulations*, Section 225.16(f)(1)(ii), states:

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 the “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

Program operators will need to request waivers from the CDE at least 30 days before the start of the meal service. The CDE will evaluate waiver requests for the use of OVS by non-SFA program operators according to the following criteria:

- Program operator is in good standing
- Program operator has no significant administrative review (AR) findings from the prior year
- Program operator must provide an explanation of the fiscal and logistical burden of serving meals without using OVS and the negative impact on serving children

The CDE Field Services Unit will monitor meal pattern compliance to ensure all participants receive a reimbursable meal under SFSP through the AR process.

7. Description of any steps the state has taken to address regulatory barriers at the state level

No regulatory barriers at the state level.

8. Anticipated challenges with waiver implementation

No anticipated challenges.

9. Anticipated impact on federal administrative costs and assurance that any increases in federal administrative costs will be paid from nonfederal funds

No impact on federal administrative costs.

10. Anticipated implementation date and time period

Implementation date: March 1, 2019—program operators will need to request a waiver each year.

Time period CDE is requesting authority to waive regulatory requirements: March 1, 2019–September 30, 2022. This will be a four year period and align with our administrative review schedule so that we can ensure all program operators are compliant.

11. Proposed monitoring and review procedures

The CDE Field Services Unit will monitor meal pattern compliance to ensure all participants receive a reimbursable meal under SFSP through the AR process.

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

The CDE will send a report to FNS by October 31 of each year reporting the name of each program operator approved for this waiver, number of sites included in the waiver, number of participating students, and the criteria used to determine program operator's waiver approval.

The following links to the public notice informing the public about the proposed waiver:

SFSP waiver request to be posted to the CDE SFSP Information web page on the Announcements tab at <https://www.cde.ca.gov/ls/nu/sf/sfspinfo.asp>.

Signature and title of requesting official

Title: Staff Services Manager I

Requesting official's email address for transmission of response: jcook@cde.ca.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 your knowledge, experience and work with the State.

- **Date request was received at Regional Office:**
- **Regional Office recommendations:**