



Food and  
Nutrition  
Service

March 25, 2019

Park Office  
Center

Kathleen Britton  
Director, Child Nutrition Programs  
Utah State Board of Education  
250 East 500 South  
Salt Lake City, Utah 84114

3101 Park  
Center Drive  
Alexandria  
VA 22302

Dear Ms. Britton:

This is in response to the Utah State Board of Education Child Nutrition Programs' (USBE CNP) January 28, 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 C.F.R. 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 is also requesting to allow SFA sponsors operating SFSP to use the OVS meal service parameters for the SFSP. 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, 2020.

USBE CNP requested a statewide waiver to continue to provide OVS flexibilities, previously approved in an FNS nationwide waiver that has been rescinded, to all sponsors utilizing OVS for a period of five years beginning in program year 2019. USBE CNP reports that use of OVS reduces food waste and costs, allows for a tailored approach to meet the nutritional needs of children, and gives children a choice in meal selection. USBE CNP has observed that this flexibility allows sponsors to operate more efficient and cost effective programs. Without this waiver, USBE CNP would require updates to software systems in order to comply with the regulatory requirements for OVS, which would increase the cost of SFSP administration. In addition, there would be a significant impact on USBE CNP's staff time and increased costs to update training and technical assistance materials, re-train sponsor and site staff, and monitor compliance. In the request, USBE CNP proposes to continue to protect program integrity by continuing technical assistance visits, administrative reviews and training.

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, 2020. While USBE CNP requested this waiver for a period of five years, FNS limited the duration of the waiver to assess its impact on program year 2019 and the State's ability to report the required data elements outlined below. This waiver is applicable to regulations at 7 C.F.R. 225.16(f)(1)(ii), which limits use of OVS to SFAs.

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 C.F.R. 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 December 31, 2019, USBE CNP must provide to the FNS Mountain Plains Regional Office a written report quantifying the impact of the waiver, as described below. **Please note that any requests for renewal of this waiver are contingent on USBE CNP's ability to provide complete data and an analysis of the waiver impact. Failure to provide the requested data may result in the automatic denial of a waiver request for the next program year.**

The report must include the following:

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- 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 number of non-SFA sponsors and sites that used the waiver;
- The number of SFA sponsors and sites that use the SFSP OVS meal service parameters;
- The number of meals served at sites that used the waiver; and
- A summary of findings associated with the use of this waiver.

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 Mountain Plains Regional Office.

Sincerely,



Angela M. Kline  
Director  
Policy & Program Development Division

Electronic Copies: Jane Brand, MPRO  
Matthew Anderson, USBE CNP