

**INDIANA SFSP WAIVER REQUEST****Extension of Offer versus Serve**

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.**

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

Indiana Department of Education  
Office of School and Community Nutrition  
115 W Washington St, South Tower, Suite 600  
Indianapolis, IN 46204

Marcia Yurczyk, School & Summer Monitoring Programs Coordinator  
Ph. (317) 232-0852, [myurczyk@doe.in.gov](mailto:myurczyk@doe.in.gov)

Tina Skinner, SFSP Specialist  
Ph. (317) 232-0855, [tskinner@doe.in.gov](mailto:tskinner@doe.in.gov)

**2. Region: Midwest**

**3. Eligible service providers participating in waiver and affirmation that they are in good standing:** Indiana Department of Education (IDOE) is requesting this waiver on behalf of all Indiana SFSP public and private school sponsors determined to be in good standing in the State of Indiana and who have been using the SFSP

meal pattern with Offer Versus Serve successfully as was previously allowed under USDA FNS Policy Memorandum SP10-2017, SFSP 06-2017. The IDOE is also requesting this waiver for non-school SFSP sponsors who have previously demonstrated the proper use of Offer Versus Serve successfully at their SFSP sites.

- 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(I)(2)(A)(iii) and 12(I)(2)(A)(iv) of the NSLA]:**
- School sponsors have been serving SFSP meals prior to the change of the NSLP/SBP meal pattern in the Healthy Hunger Free Kids Act of 2010. This request is to waive a regulatory requirement regarding the use of Offer versus Serve (OVS) and the regulation to follow the NSLP meal pattern requirement for school food authorities (SFAs). The request seeks to allow SFA sponsors, and non-SFA sponsors in good standing that demonstrate a sufficient understanding of OVS, to use OVS and follow the SFSP meal pattern requirements. These sponsors should not be mandated to follow more restrictive NSLP meal pattern requirements, including compliance with vegetable sub-groups and sodium, fat and calorie restrictions when choosing OVS serving method.

**Goal to Improve Services:**

- The overall goal of the program is to provide nutritious meals to children who are otherwise at risk of being underserved or going without food during the school breaks. SFAs are most familiar with OVS practices and have previously used the SFSP meal pattern to meet meal pattern requirements and OVS to reduce plate waste. Requiring a continuation of the NSLP/SBP meal pattern for use with OVS could limit the SFAs capability of using up leftover inventory within the short summer season as under the NSLP meal pattern specific vegetable subgroups must be met on a weekly basis.
- Since the extension of OVS to non-SFA sponsors, some SFSP sponsors have elected to use OVS in Indiana and have done so successfully. To not allow them to continue to do so might discourage them from SFSP participation.
- We have worked hard to encourage SFAs to work with local farmers to offer farm-to-school fresh fruits and vegetables. Requiring SFAs to meet the specific vegetable subgroups each week in order to use OVS might eliminate their opportunity to purchase locally grown vegetables if the available vegetables do not fit within the week's vegetable subgroup requirements. The SFSP meal pattern and regulations were written and implemented long before the HHFKA 2010 meal pattern changes were implemented in NSLP.

**Expected Outcome if Granted:**

- SFAs and currently approved non-SFA SFSP sponsors using OVS with SFSP meal pattern could continue to plan menus meeting the SFSP meal pattern by using up current inventory without the concern of meeting a more restrictive meal pattern, specifically the required vegetable subgroups.

- SFSP sponsors approved to use OVS could continue to menu and purchase locally grown produce without regard for meeting specific vegetable subgroups.
- Non-SFA sponsors who have previously demonstrated a compliant knowledge of OVS requirements would be allowed to continue using OVS.
- SFSP participants would still receive well planned menu offerings that take advantage of SFA surplus inventory and locally grown menu items, without the restrictions of vegetable subgroup limitations.

**5. Specific Program requirements to be waived (include statutory and regulatory citations).** [Section 12(l)(2)(A)(i) of the NSLA]: 7 CFR 225.16(f)(1)(ii) – In order for a SFA sponsor of SFSP to use OVS serving method, the meal pattern for School Nutrition Programs (NSLP/SBP) must be followed.

The IDOE is seeking to waive a regulatory requirement regarding SFSP Offer versus Serve (OVS) meal pattern requirement for school food authorities (SFAs) and other non-SFA sponsors currently approved to use OVS. The request seeks to allow SFA sponsors, and non-SFA sponsors in good standing that demonstrate a sufficient understanding of OVS, to follow SFSP meal pattern requirements.

**6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:** Sponsors must indicate their intention to use OVS for each specific meal service on the site info sheet within our CNPweb database. OVS continues to be an option, not a requirement for eligible sponsors and the State Agency reserves the right to deny a sponsor request if significant findings related to OVS were observed in the prior operating year. The sponsor may not appeal the State Agency's decision not to allow the sponsor to use OVS. However, the sponsor may submit another request to operate OVS the next operating year while continuing to demonstrate regulatory compliance. Sponsors indicating the use of OVS will require additional staff training. State Agency staff will review sponsor and site applications and approve the OVS individually by site and/or by sponsor. Sponsors/Sites demonstrating a lack of understanding of OVS requirements during site visits will be immediately stopped from utilizing OVS, and will be required to serve complete SFSP meals for the remainder of the summer season.

**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]: Indiana does not have any State statutory or regulatory barriers that apply to this waiver request.

**8. Anticipated challenges State or eligible service providers may face with the waiver implementation:** No challenges for State or sponsoring agencies are anticipated in implementation of this waiver. There were no complications or sites found to be in noncompliance using this option during the 2019 SFSP season.

**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]:**  
The requested waiver does not impact the overall cost of the program to the State or federal government. The use of OVS allows sponsors to reduce food waste, thus allowing participants to decline items they know they will not eat. This helps sponsors keep food costs down. By not approving this waiver, food costs will rise for sponsors and they may decide to opt off the program.

**10. Anticipated waiver implementation date and time period:**

Requested State implementation date – March 1, 2020  
Duration of the waiver – 5 years, February 29, 2025

**11. Proposed monitoring and review procedures:** The State Agency will continue to carry out current program monitoring and review procedures. The proper implementation of OVS is a part of the current site review process. As with any other findings, discrepancies will be recorded, documented and discussed with both site and sponsor personnel, either immediately following the site review or during the administrative review of the sponsor.

**12. Proposed reporting requirements (include type of data and due date(s) to FNS):** In addition to the reports required in USDA Policy Memorandum SP15-2018, CACFP 12-2018, SFSP 05-2018, Indiana will report the following data about OVS use by December 31 of the program year.

- Number of SFA and non-SFA sponsors electing to use OVS
- Number of sites that elected to use OVS
- Participation data by site
- Sponsor/site OVS training

**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.doe.in.gov/nutrition/summer-food-service-program>

**14. Signature and title of requesting official :**

a.   
Title: Julie Sutton, School and Community Nutrition Director

b. Requesting official's email address for transmission of response: [jsutton@doe.in.gov](mailto:jsutton@doe.in.gov)

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**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:**

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- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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