



**COLORADO**  
Department of Education

Office of School Nutrition  
1580 Logan, Suite 760  
Denver, CO 80203

Tandy Jones  
Mountain Plains Regional Office  
1244 Speer Blvd Suite 903  
Denver, CO 80204-3581

November 19, 2018

1. **State agency submitting waiver request and responsible State agency staff contact information:**  
Colorado Department of Education (CDE) School Nutrition Unit.  
Ashley Moen, [moen\\_a@cde.state.co.us](mailto:moen_a@cde.state.co.us), 303-866-6653.
2. **Region:** Mountain Plains
3. **Eligible service providers participating in waiver and affirmation that they are in good standing:**  
This waiver request is applicable state-wide for all approved sponsor organizations 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(I)(2)(A)(iii) and 12(I)(2)(A)(iv) of the NSLA]:  
The CDE School Nutrition Unit is requesting a state-wide waiver for Summer Food Service Program (SFSP) flexibilities and policies that were rescinded by the USDA Food and Nutrition Services (FNS) on October 11, 2018 through SFSP 01-2019 *Summer Food Service Program Memoranda Rescission*. The impact and challenges faced as a result of the rescinded flexibilities and policies to the CDE School Nutrition Unit and Colorado sponsors are detailed below.

#### Offer versus Serve

FNS implemented the offer versus serve (OVS) option 43 years ago to allow operators to tailor portion sizes to individual appetites and nutrition needs.<sup>1</sup> Further, research shows that the OVS provision decreases plate waste while maintaining nutritional benefits.<sup>2,3</sup> In PY 2018, 51 percent (350 sites) followed the SFSP meal pattern and utilized OVS as a menu planning method.

Based on administrative reviews from 2016 to 2018 the CDE School Nutrition Unit found zero findings related to OVS implementation. The CDE School Nutrition Unit review findings are consistent with the FNS *Feeding Low-Income Children When School Is Out- The Summer Food Service Program Executive Summary*<sup>4</sup> in that review findings relate to inaccurate calculation of component contribution, with the meat/meat alternate component most often served in an inadequate amount. Offer versus serve does not impact the nutritional integrity of summer meals; it does, however, allow for a tailored





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approach to meet the nutritional needs of children, allow choice in meal selection for children, minimize food waste and reduced food cost.

The CDE School Nutrition Unit received statements from sponsor and **organizations** outlining the impact and challenges faced at the local level if OVS is no longer a menu planning option. These statements are below:

Greeley 6, a school food authority (SFA) that sponsors 45 sites, provided the following statement:

- OVS not only reduces cost and plate waste, but starts lifelong habits for children to select nutritious food that they will consume. Offering children the power of choice is an important building block in developing healthy eating habits. Additionally, without the continued extension of OVS to non-school food authorities, they will suffer significantly higher costs to operate the program.

Equal Heart, a sponsor of 48 sites, provided the following statement:

- As a mobile program serving seven different routes, we incorporate a unitized meal for on-site efficiency. Offer versus serve allows us to hand a child a meal and offer them the milk. At least 20% of the children, in 90-degree plus weather, do not want to drink the milk. Without OVS we will throw away six thousand cartons of milk; or rather, the children throw it away as soon as we hand it to them. This is because local health department rules forbid us from recycling milk as soon as it is "served" to a child. Under OVS we are able to recycle the milk at a cost savings of \$2,400. And while the cost savings might not seem high, it does represent 2.7% of our food costs. The impact of OVS is threefold: funds not wasted, trash not created, and children given the power to choose what they would like to eat.

The goal of this waiver is to reinstate the rescinded flexibilities and policies to allow for efficient and cost effective program management and reduce administrative burden for sponsors and the CDE School Nutrition Unit.

Approval of this waiver will allow the CDE School Nutrition Unit and Colorado sponsors to continue implementing streamlined measures for effective program management and operation. In addition, if





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approved, the CDE School Nutrition Unit will not be required to spend additional funds and staff time to update technology systems and revise state-wide training and review procedures.

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

The CDE School Nutrition Unit is requesting all flexibilities and policies rescinded in SFSP 01-2019 be reinstated. The individual regulations to be waived are outlined below:

*Current regulation to be waived: 7 CFR 225.16(f)(1)(ii) "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 "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:**

**Description of Alternative Procedures:**

Offer versus serve (OVS) will be extended to non-school food authority sponsors in good standing in an effort to simplify program administration and reduce food waste and costs while maintaining the nutritional integrity of the SFSP meals. All SFSP sites, regardless of location or type of sponsorship, may utilize OVS for breakfast, lunch, and supper meals. All non-school food authority sponsors electing to use OVS and school food authorities participating in SFSP and electing to follow the SFSP meal patterns must follow the SFSP OVS requirements outlined in SFSP 05-2016 *Meal Service Requirements in the Summer Meal Programs, with Questions and Answers*, Nov. 12, 2015.

**Anticipated impact on Program operations, including technology, State systems, and monitoring:**

This waiver will significantly decrease administrative burden, allow for efficient and effective oversight of program operations, reduce food costs and food waste and allow sponsor organizations to meet the needs of their communities and participating children. The CDE School Nutrition Unit will continue to ensure program integrity through technical assistance visits, administrative reviews, and training. In addition, no





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change will need to be made to current technology systems as a result of this waiver. Approval of this waiver will be cost neutral for CDE School Nutrition.

If this waiver is not implemented, the following impact on program operations will likely occur:

- o Increased costs to the CDE School Nutrition Unit to update software systems to comply with regulation changes. Updates to software will affect the application and compliance modules.
- o Significant impact on the CDE School Nutrition Unit staff time and effort and increased cost to update training and technical assistance materials, re-train sponsor and site staff, and monitor compliance with rescinded flexibilities and policies.
- o Increased food costs and food waste for non-school food authority sponsors that no longer have the option to implement offer versus serve.
- o Loss of choice for children in meal selection, resulting in decreased participation and an increase in childhood hunger in Colorado.

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

[Section 12(I)(2)(A)(ii) of the NSLA]: The flexibilities and policies rescinded by the USDA FNS on October 11, 2018 through SFSP 01-2019 *Summer Food Service Program Memoranda Rescission* will increase administrative burden and create barriers to program access and effective program operation. To address these barriers, the CDE School Nutrition Unit is submitting this waiver. The CDE School Nutrition Unit provides a variety of training modalities to ensure OVS is understood and implemented correctly at the sponsor and site level. These methods include annual in person training, online training videos, site staff self-study guides, and one on one sponsor technical assistance visits. The CDE School Nutrition Unit also utilizes lean principles to implement streamlined measures and continuous process improvement for the program.

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

**implementation:** There are no anticipated challenges with waiver implementation. Internal processes and procedures are already in place to ensure program integrity.

**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**





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funds. [Section 12(l)(1)(A)(iii) of the NSLA]: There is no anticipated impact on Federal administrative costs for State Agency oversight with implementation of this waiver.

10. **Anticipated waiver implementation date and time period:** This waiver will be implemented immediately upon approval for program year 2019 and remain in effect for a period of five years.

11. **Proposed monitoring and review procedures:** Sponsors and sites will continue to be monitored by the CDE School Nutrition Unit as outlined in 7 CFR 225.7 (2)(ii)(B). Standard review procedures will continue to be followed; if noncompliance is identified, the CDE School Nutrition Unit will implement a corrective action plan and conduct follow-up reviews, as needed.

12. **Proposed reporting requirements (include type of data and due date(s) to FNS):** The CDE School Nutrition Unit will provide FNS with required reports, including review findings and technical assistance provided, survey results showing impact on improved services and streamlined administrative requirements, as well as meal quality data. This information will be available annually.

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]:** The public notice is located at:  
<http://www.cde.state.co.us/nutrition/nutrisummer>.

14.. Signature and title of requesting official:

Name: Ashley Moen, MS, RD, SNS

Title: Summer Meal Programs Supervisor

Requesting official's email address for transmission of response: [moen\\_a@cde.state.co.us](mailto:moen_a@cde.state.co.us)





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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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References:

1. United States Government Accountability Office. SCHOOL LUNCH Implementing Nutrition Changes Was Challenging and Clarification of Oversight Requirements Is Needed. (2014); available at <https://www.gao.gov/assets/670/660427.pdf>.
2. Buzby, J. C., & Guthrie, J. F. (2002). Plate waste in school nutrition programs. *The Journal of Consumer Affairs*, 36(2), 220-238.
3. Food and Nutrition Service, US Department of Agriculture. (2014) Offer versus Serve: Guidance for the National School Lunch Program and the School Breakfast Program. Alexandria, VA: FNS/USDA; available at <https://fns-prod.azureedge.net/sites/default/files/cn/SP41-2015av2.pdf>
4. Food and Nutrition Service, US Department of Agriculture. (2003) Feeding Low-Income Children When School Is Out—The Summer Food Service Program; Washington D.C.: FNS/USDA; available at [https://www.ers.usda.gov/webdocs/publications/46700/48129\\_fanrr30.pdf?v=41808](https://www.ers.usda.gov/webdocs/publications/46700/48129_fanrr30.pdf?v=41808)

