

**CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST**

**POTABLE WATER WAIVER REQUEST FOR NSLP/SBP/CACFP/ASSP FOR IDAHO
CHILD NUTRITION PROGRAMS**

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 Afterschool Snack Program (ASP), 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.

Subject of waiver request: Potable Water Requirement

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

Name of State agency:	Idaho Child Nutrition Programs
State agency staff contact:	Colleen Fillmore, Director Lynda Westphal, NSLP Coordinator
Mailing address:	650 West State Street, PO Box 83702, Boise ID 83702
Telephone number:	(208) 332-6823
Email address:	Crfillmore@sde.idaho.gov Ljwestphal@sde.idaho.gov

2. Region: Western Region

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

The Idaho Department of Education (SA), Idaho Child Nutrition Programs (CNP) requests this waiver for National School Lunch (NSLP), School Breakfast Program (SBP), Afterschool Snack Program (ASSP), Child and Adult Care Food Program (CACFP) sponsors and SFAs, 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]:

7 CFR 210.10(a)(1)(i) require schools to make potable water available and accessible without restriction to children at nocost in the places where lunches are served during the meal service. Similarly, the SBP regulations at 7 CFR 220.8(a)(1) require schools to make potable water available and accessible without restriction to children at no charge. Potable water must be available during the meal service if breakfast is served in the cafeteria.

Under the current COVID-19 pandemic, service conditions make it impossible to maintain a safe and sanitary method to dispense water to the children. Most schools/sponsors utilize water fountains, insulated Cambro dispensers, or pitchers filled with water to fulfill this USDA requirement.

A yet to be published study in the New England Journal of Medicine conducted by scientists from the CDC, National Institutes of Health and other institutions suggests that the 2019 novel coronavirus can live for two to three days on plastic and stainless steel surfaces (line 102-109 in link). The Link to the study can be found here:

<https://www.medrxiv.org/content/10.1101/2020.03.09.20033217v1.full.pdf>

Based on this study alone the SA feels it would be unreasonable to expect the SFAs to make potable water available during meal service. Providing this service could expose our students to the coronavirus if any piece of equipment is not cleaned and sanitized properly. Bottled water, although an alternative to water fountains, dispensers and pitchers, would be cost prohibitive for our SFAs. Therefore, we request flexibility to not provide potable water during the coronavirus pandemic.

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

Idaho SDE is requesting a waiver of the requirement found at 7 CFR 210.10(a)(1)(i) for the National School Lunch Program and Afterschool Snack Program, requiring schools to make potable water available and accessible to children during the meal service. Similarly, the SBP regulations at 7 CFR 220.8(a)(1) require schools to make potable water available and accessible during the meal service if breakfast is served in the cafeteria. In addition, in April 25, 2016, FNS published the final rule for “CACFP: Meal Pattern Revisions Related to the HHFKA” (81 FR 24348) to update the CACFP meal patterns in 7 CFR 226.20. This final rule codified the water requirement outlined in the memorandum CACFP 20-2011 under 7 CFR 226.25(i) which required that child care centers and day care homes make water available to children upon request throughout the day including meal times starting October 1, 2017.

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

Sponsors and SFAs who will be serving meals under NSLP/SBP/CACFP/ASSP may submit a waiver request to Idaho CNP to disregard the requirement to provide potable water during the meal service and for CACFP sponsors during the day upon request. Sponsors and SFAs will be encouraged to inform parents to send their children to school/child care centers/day care homes with a filled water bottle. There should be no impact on program operations.

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]:

No regulatory barriers at the State level.

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

No anticipated challenges

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 establishment of this statewide waiver will not increase the overall cost of the program to the federal government. These programs will be operating in a situation where normal USDA Child Nutrition programs have modified their meal service to meet the CDC recommendations to prevent the spread of coronavirus. The Sponsors and SFAs are absorbing any costs to continue to provide meals under these extraordinary circumstances. However, should USDA require Sponsors and SFAs to

provide potable water there will be a cost to the Program.

10. Anticipated waiver implementation date and time period:

The anticipated waiver implementation start date is effective immediately until June 30, 2021.

There is currently no foreseeable resolution to COVID-19 at this time. Idaho SDE would like to request the authority to allow NSLP/ASP/SBP/CACFP Sponsors and SFAs to disregard the water requirement in cafeterias until such time scientifically proven solutions and guidance is available.

11. Proposed monitoring and review procedures:

Idaho SDE will track and provide oversight to all NSLP/SBP/CACFP/ASP participants who are approved to disregard the water requirement due to CDC recommendations to limit the spread of the coronavirus.

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

Idaho SDE will report the following data points once the health emergency has passed and schools are re-opened.

- The number of sponsors and sites that utilized the waiver

13. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(I)(1)(A)(ii) of the NSLA]:

<https://www.sde.idaho.gov/re-opening/safety-wellness.html>

14. Signature and title of requesting official :

- Signature: Colleen Fillmore (electronic approval)
- Title: Colleen Fillmore, Director, Child Nutrition Programs, Idaho Child Nutrition Programs.

Requesting official's email address for transmission of response:

CRFillmore@sde.idaho.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 their knowledge, experience and work with the State.



Date request was received at Regional Office:

- Date Received: _____
Check this box to confirm that the State agency has provided public notice in accordance with Section 12(l)(1)(A)(ii) of the NSLA

- **Regional Office Analysis and Recommendations:**

- Recommend Approval
- Recommend Denial

Explanation: