

September 1, 2020

Diane Fulton,  
Mountain Plains Regional Office  
1244 Speer Blvd Suite 903  
Denver, CO 80204-3581

Subject: Child Nutrition Program State Waiver Request to water requirement.

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

SD Department of Education, Child and Adult Nutrition Services  
Cheriee Watterson, Office Administrator  
800 Governors Drive  
Pierre, SD 57501-2235  
605-773-3413  
[Cheriee.Watterson@state.sd.us](mailto:Cheriee.Watterson@state.sd.us)

**2. Region:** Mountain Plains (MPRO)

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

Any School Food Authorities (SFA's) or sponsors currently approved by the South Dakota Department of Education to operate the National School Lunch Program (NSLP) and the School Breakfast Program (SBP), in good standing, and any childcare center or day care home approved by the South Dakota Department of Education, in good standing, to operate the Child and Adult Care Food Program, who are utilizing a Non-congregate Feeding Waiver during the COVID-19 pandemic.

**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(1)(2)(A)(iii) and 12(1)(2)(A)(iv) of the NSLA]:**

Challenge:

When operating under a Non-congregate Feeding Waiver or serving meals outside of the cafeteria, sponsors of the programs find it difficult to have a cost-effective, practical method for providing access to potable drinking water for every participant.

Goal:

To allow sponsors to provide reimbursable meals to participants without the burden of also providing potable drinking water.

Outcome:

Sponsors will be able to stay within budget while operating their program, avoid potential program infractions, and maintain meal pattern requirements and program integrity.

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

Water availability requirements listed in 7 CFR 210.10(a)(1)(i); 7 CFR 226.25(i).

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

Alternative Plans for providing safe drinking water:

- Consider providing cups of drinking water upon student request
- Utilize drinking fountains near classrooms
- Encourage the purchase of bottle fillers for water fountains
- Provide bottled water with meal service

Why alternative plans are not feasible:

- Safety concerns with drinking fountains
- Burden on food service/school employees in attempt to provide cups of water upon request
- Financial challenges with purchasing bottle fillers for water fountains and purchasing individual water bottles

How schools will mitigate the effects of not providing water:

- Encourage students to bring water bottles from home
- Encourage schools to provide reusable water bottles

**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]:**

There are currently no State level regulatory barriers related to this specific issue.

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

No anticipated challenges at the state or sponsor level. Alternatively, we anticipate this waiver will reduce challenges faced by SFAs and Sponsors that are serving meals during the federally declared public health emergency due to coronavirus/COVID-19.

**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]:**

Use of this waiver would not increase the overall cost of the Program.

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

Effective August 1, 2020 and to remain in effect through June 30, 2021, or upon expiration of the federally declared public health emergency, whichever is earlier.

**11. Proposed monitoring and review procedures:**

State agency staff will approve requests to implement use of the waiver, and track this on a spreadsheet.

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

The State Agency will report to FNS regional office any compliance issues noted with this flexibility during the application approvals and reviews by June 30, 2021.

**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://doe.sd.gov/cans/index.aspx> located under "Announcements" tab

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



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Child and Adult Nutrition Services  
SD Department of Education  
(605) 773-3413  
[Cheriee.Watterson@state.sd.us](mailto:Cheriee.Watterson@state.sd.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:**

Recommend Approval

Recommend Denial