

Subject: State-wide Waiver Request: **School Year 2020-2021 Potable Water Waiver**

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

North Dakota Department of Public Instruction  
Attn: Linda Schloer, Director  
Child Nutrition and Food Distribution Programs  
600 East Boulevard Ave., Dept. 201  
Bismarck, ND 58505  
lkschloer@nd.gov

**Region:** Mountain Plains

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

All North Dakota SFAs that participate in the Child Nutrition Programs in good standing.

**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]:**

**Challenge:** As North Dakota continues to monitor the Coronavirus (COVID-19) effects we know school schedules will be drastically modified. The North Dakota Department of Public Instruction (NDDPI) is seeking a waiver from the United States Department of Agriculture (USDA), Food and Nutrition Services (FNS) for the purpose to support school reentry plans. Children are being given the option to opt into remote learning, some children will attend school partial days while others attend school a full day but maximize social distancing. To prevent exposure and spread of COVID-19 these modifications are critical in the school environment. Water fountains and self-serve water pitchers are both areas of high risk and could lead to the possibility of spreading the virus through contaminated surfaces. Certain modifications of the school environment such as turning off water fountains or not having water coolers available in areas of high risk is important to minimize exposure.

**Goal:** NDDPI is requesting this waiver to ensure school food authorities are able to develop reentry plans that minimize exposure and spread of COVID-19 and secure safety for all students and staff.

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

NDDPI requests a waiver of regulations at 7 CFR 210.10(a)(i) and 7 CFR 220.8(a)(1) that schools must make potable water available and accessible without restriction to children at no charge in the place(s) where breakfast and lunch meals are served during the meal service.

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

If approved, NDDPI will accept waiver request from each school food authority that wishes to opt into the potable water waiver and provide technical assistance to school food authorities. NDDPI will be providing technical assistance to those SFAs on alternatives to providing potable water to students when possible in a safe manner that is consistent with local health requirements.

**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]:**

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

**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]:**

Since flexibilities were not previously available specifically for COVID-19, the State agency has not had to address any regulatory barriers due to this issue.

**Anticipated challenges State or eligible serve providers may face with the waiver implementation:**

We anticipate this waiver will reduce challenges faced by school food authorities to prevent exposure to COVID-19 on contaminated surfaces during the 2020-2021 school year.

**Description of how the waiver will not increase the overall cost of the Program to the Federal Government. If there are anticipated increase confirm that the costs will be paid from non-Federal funds. [Section 12(I)(2)(A(ii) of the NSLA]:**

NDDPI does not anticipate this waiver will increase the overall cost of the Program to the Federal Government. There are no additional staff cost to implement this waiver. School food authorities would experience increased expenses if required to provide bottled water to students at no cost. Schools seen a decrease in revenue due to the unanticipated school closures and if required to purchase bottled water the loss in revenue would be much greater.

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

Anticipated implementation start date is: The waiver would be implemented the first day of school, estimated as early as August 15, 2020, and continue through June 30, 2021 or the last day of the 2020-2021 school year, whichever is sooner.

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

NDDPI State agency will continue normal procedures for compliance monitoring at each individual school district implementing this waiver.

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

NDDPI will report to FNS all requested data for the waiver in the timelines required. NDDPI will report to FNS regional office any compliance issues noted with this waiver.

**Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(1)(2)(A(ii) of the NSLA]:**

Notice to be released: <https://www.nd.gov/dpi/districtschools/child-nutrition-and-food-distribution/school-nutrition-program>

**Signature and title of requesting official:**

Director, Child Nutrition and Food Distribution Programs  
dpicnfd@nd.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**

**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**

