



Matthew L. Blomstedt, Ph.D., Commissioner

# NEBRASKA

## DEPARTMENT OF EDUCATION

August 13, 2020

Jennifer Otey  
Mountain Plains Regional Office  
1244 Speer Blvd Suite 903  
Denver, CO 80204

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

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

Nebraska Department of Education Nutrition Services  
Attn: Sharon Davis, 301 Centennial Mall South  
Lincoln, Nebraska 6850-94987  
Sharon.l.Davis@nebraska.gov

**Region:** Mountain Plains

**Eligible service providers participating in waiver and affirmation that they are in good standing:** All Nebraska Child Nutrition Program Operators 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(l)(2)(A)(iii) and 12 (l)(2)(A)(iv) of the NSLA]:**

**Challenge:** As the Nebraska Department of Education, Nutrition Services (NDE) assesses the ongoing effects of the Coronavirus (COVID-19) on Child Nutrition's operation and meal service, it is clear that traditional meal service will be modified to accommodate social distancing recommendations and virtual learning. The NDE is seeking a waiver from the United States Department of Agriculture (USDA), Food and Nutrition Services (FNS) to best support child nutrition foodservice operations. Nebraska Child Nutrition foodservice operations are preparing to provide meals to children in a variety of scenarios, including for students opting to participate in remote learning, some children attending partial days or on alternating days, and others attending full days but with adjustments designed to maintain social distancing. To minimize exposure and spread of COVID-19, modifications like these are necessary.

Water fountains and self-serve water stations pose opportunities for contamination. Local public health experts recommend eliminating this opportunity by turning off water fountains and not having water coolers available in areas of high risk is important to minimize exposure.

**Goal:** The NDE is requesting this waiver to ensure Child Nutrition Programs are able to develop foodservice plans that minimize exposure and spread of COVID-19 that emphasize the safety of all students and staff. Specific Program requirements requesting to be waived (include statutory and regulatory citations). [Section 12(l)(2)(A)(i) of the NSLA]: The NDE 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 meals are served.

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

If approved, the NDE will request each Child Nutrition Operator that opts to use the potable water waiver notify the NDE using an online survey. The NDE will also provide technical assistance to SFAs as they navigate appropriate implementation of the waiver with considerations for the waivers necessity based on local public health recommendations, localized risk level, and current meal service modifications based on the aforementioned factors.

**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 the potable water requirement.

**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]:**

Flexibilities were not previously available specifically for COVID-19. Therefore, the NDE has not addressed any regulatory barriers due to this issue.

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

The NDE anticipates this waiver will reduce challenges, including the added cost of providing bottled water to all students, faced by Child Nutrition Operators in efforts to minimize exposure to COVID-19 during the 2020-2021 program 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(l)(2)(A)(ii) of the NSLA]:**

The NDE does not anticipate this waiver will increase the overall cost of the Program to the Federal Government. There are no additional staff costs to implement this waiver and approval of this waiver will not result in misappropriate use of program funds. If not approved, the waiver's absence from the tools and flexibilities available to Child Nutrition Operators would make meal service more cumbersome and expensive. The impact of COVID at the end of the 2019-2020 school year caused noticeable increases in foodservice costs associated with supplies necessary for grab-and-go meals. The 2020-2021 program year will also come with added foodservice costs associated with supplies needed for meals served in classrooms, grab-and-go style items, added costs associated with serving pre-portioned items in order to continue meeting meal pattern requirements.

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

The waiver would be implemented the first day of schools begin operation for SY 2020-2021, and would and continue through June 30, 2021 or the last day of SY 2020-2021, whichever is earlier.

**Proposed reporting requirements (include type of data and due date(s) to FNS:** The NDE will continue normal procedures for compliance monitoring at each sponsor implementing this waiver.

**Proposed reporting requirements (include type of data and due date(s) to FNS:** The NDE will report to FNS all requested data for the waiver in the timelines required. The NDE 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(l)(2)(A(ii) of the NSLA):**

Notice to be released and will be posted at [www.education.ne.gov/ns](http://www.education.ne.gov/ns)

**Signature and title of requesting official:**



Sharon Davis, Administrator  
Nebraska Department of Education Nutrition Services  
Sharon.l.Davis@nebraska.gov