



**CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST
POTABLE WATER WAIVER REQUEST FOR NSLP/SBP/CACFP/ASP
FOR HAWAII 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 (CNPs), 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: Hawaii Child Nutrition Programs
State agency staff contact: Sharlene Wong
Mailing address: 650 Iwilei Road, Suite 270, Honolulu, HI 96817
Telephone number: (808) 587-3600
Email address: Sharlene.Wong@k12.hi.us

2. Region: Western Region



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

The State Agency (SA), Hawaii Child Nutrition Programs (HCNP) requests this waiver for NSLP, SBP, CACFP, and ASP sponsors/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 no cost 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. Link to study:

<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.

In addition, the CDC has the following recommendations found at this link:

<https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/schools.html>

“Maintaining Healthy Environments

Schools may consider implementing several strategies to maintain healthy environments.



- **Cleaning and Disinfection**

- Clean and disinfect frequently touched surfaces (e.g., playground equipment, door handles, sink handles, **drinking fountains**) within the school and on school buses at least daily or between use as much as possible.

Drinking fountains should be cleaned and sanitized, but encourage staff and students to **bring their own water to minimize use and touching of water fountains.**"

The CDC guidance together with the yet to be published medical research article makes a strong case that water fountains could be a source of spreading coronavirus.

We also have the following email from a Dept of Health Specialist:

Aloha Shirley,

Good to hear from you.

The DOH has not adopted any guidance at this time on the re-opening of DOE schools.

Item 17 in the attached Mayors order specifically exempts DOE Facilities, but does not address drinking fountains.

Education and care facilities.

This section applies to all private education, adult care, and special needs care facilities ("Education/Care Facilities"). State-regulated education and care facilities are not included, but may reopen as allowed by the State and/or the Department of Education. A business falling within the definition of an Essential Business (e.g., "childcare" under Section II.F.20 of the Order) and this section, may operate under either. Starting June 19, 2020, Education/Care Facilities may reopen under the following requirements and conditions:

I have had specific requests from private swimming pool operators of "public pools" (**YMCA**) to *waive the requirement that drinking fountains must be available*, and our program has agreed to allow the YMCA to close their drinking fountain to reduce maintenance and disinfection practices. We did not object as the absence of drinking fountains in a public pool setting does not increase the risk of disease transmission, whereby **keeping them open may actually present an increased risk of respiratory disease transmission in the community.** This would be especially true if monitoring water fountain use was not being done (people spitting in the fountain) because it would not be practical, and the operator would expend resources disinfecting between uses.



I apologize that I have no knowledge on the risks associated with COVID transmission and use of community water fountains in a school setting. However, *common sense would dictate that a line of thirsty 8 year-olds at a community fountain after recess may present a problem with disease transmission. Children will invariably wipe their face with their hands immediately after drinking at a fountain. Any handle or button used to start water flow will be touched by every student that uses it, who will then wipe the excess water from their face with their hands.*

I have cc'd my higher-ups and our State Epidemiologist to see if they can put together some kind of guidance/recommendation/risk analysis on the issue of water fountains at our public schools.

Aloha and Stay Well

Peter Oshiro
Environmental Health Program Manager
Food Safety Branch
Phone (808) 586-8000

Hawaii has one of the most stringent regulations in the country in their attempt to control the spread of the coronavirus. All travelers are required to self-quarantine for 14 days or risk arrest and a fine. There are watchdog groups tracking visitors and residents for quarantine violations and reporting violators to the state. As a result of these regulations, the number of confirmed cases of COVID-19 as of June 22, 2020 is 816 with 17 deaths. Compared to the continental US, Hawaii seems to have good control over limiting coronavirus cases and tracing. "Stay at home" orders are still in place through June 30 in Hawaii. The Hawaii Department of Education has taken steps to slow the spread of the virus by closing most schools. Only a few schools are open for summer classes. CDC recommendations including encouraging non-congregation of large groups, the wearing of masks, and social distancing continue to be followed. At this point in time, we do not know how many schools will have students on campus. We are also unsure whether the students will be eating in the classroom or in the cafeteria. The goal of the waiver is to ensure that our students are safe and the school meal period is not a place where transmission of coronavirus can occur through the potable water requirement.

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



HCNP 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/ASP may submit a waiver request to HCNP 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 SFAs are absorbing any costs to continue to provide meals under these extraordinary

circumstances. However, should USDA require 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. HCNP would like to request the authority to allow NSLP/ASP/SBP/CACFP sponsors/SFAs to disregard the water requirement in cafeterias until such time scientifically proven solutions and guidance is available.

11. Proposed monitoring and review procedures:

HCNP 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):

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

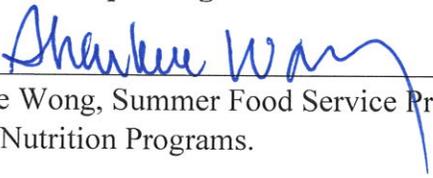
- A description of the impact the waiver had on meal service operations, children's access to nutritious meals, and participation in NSLP, and SBP
- The number of sponsors and sites that used the waiver
- The number of meals provided at school sites.
- A summary of findings associated with the waiver

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]:

Link to public notice:

<https://hcnp.hawaii.gov/wp-content/uploads/2020/06/Potable-Water-Waiver-COVID-19-2020.doc>

14. Signature and title of requesting official :

- Signature: 
- Title: Sharlene Wong, Summer Food Service Program, Program Administrator, Hawaii Child Nutrition Programs.

Title: Summer Food Service Program Hawaii



Requesting official's email address for transmission of response:
Sharlene.Wong@k12.hi.us

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: