INDIANA WAIVER REQUEST
Waiver to Allow Parents and Guardians to Pick Up Fresh Fruit and Vegetable Program (FFVP) Snacks for Children

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. 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 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.

Extenuating Circumstances: The Indiana Department of Education continues to monitor the Novel Coronavirus (COVID-19) outbreak and work in collaboration with health and government officials. The nation was recently granted a waiver to allow parents and guardians to pick up meals to take home to their children. The State Agency now is requesting the permission to allow parents and guardians to pick up FFVP snacks to take home to their children, to avoid the spread of the COVID-19. Not applying for this waiver will leave many children without the FFVP snack that they have previously been provided and available at their local schools. We are seeking approval of this waiver with an effective date as soon as possible.

1. State agency submitting waiver request and responsible State agency staff contact information:
Indiana Department of Education
Office of School and Community Nutrition
115 W Washington St, South Tower, Suite 600
Indianapolis, IN 46204

Julie Sutton, Director, Child Nutrition Programs
Ph. (317) 232-0845, jsutton@doe.in.gov

Allie Caito-Sipe, School Nutrition Program Senior Specialist
Ph. (317) 232-0849, acaito@doe.in.gov
2. **Region:** Midwest

3. **Eligible service providers participating in waiver and affirmation that they are in good standing:**
   All Indiana Child Nutrition Sponsors approved to operate Seamless Summer Option (SSO), SFSP, and NSLP deemed by the State Agency to be 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]:**
   Recently, states were granted a waiver allowing CNPs implementing non-congregate meal distribution during COVID-19-related operations to distribute meals to a parent or guardian to take home to their children. FFVP was not included in this waiver. In order to take appropriate safety measures during this public health emergency and provide a consistent distribution process, Indiana is now applying for a waiver for approved FFVP schools to provide the fresh fruit and vegetable snacks to parents or guardians to take home to their children. If this waiver is granted, households can continue to take appropriate safety measures outlined in the nationwide waiver.

5. **Specific Program requirements to be waived (include statutory and regulatory citations). [Section 12(l)(2)(A)(i) of the NSLA]:**
   **Section 19 of the NSLA [42 U.S.C. 1769a]**
   Normally, only elementary-aged students are allowed to receive one free fresh fruit or vegetable snack in school under the FFVP each day the program is operated, however the Indiana Department of Education Office of School & Community Nutrition is requesting a waiver to allow parents to pick up the FFVP snack without their children present, with the intent that the snack will be given to the eligible children at home. Parents will be able to pick up multiple snacks, as long as the intent is that the student is only receiving one snack per day that they normally planned to operate the FFVP.

6. **Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:**
   If approved, this request will waive the regulatory requirement that does not allow for FFVP snacks to be taken by parents and guardians and provided to students at their home to be consumed off-site. Instead, FFVP approved sites would be permitted, with State Agency approval, to distribute FFVP snacks to parents or guardians to provide to their children at home, thus reducing the exposure to other participants and to assist in the spread of the virus while still providing participants the opportunity to receive fresh fruits and vegetables under FFVP. Schools will still be required to ensure that the parent or guardian has elementary students at their home and that only one FFVP snack per student per day is provided. Additionally, FFVP approved schools may, with State Agency prior approval, provide FFVP snacks to participants for up to five days, depending on the number of days they normally operate the FFVP.

   This request is being expedited due to an immediate response regarding the current outbreak of COVID-19 in the state of Indiana. If approved, we would handle the approval and recording of sites using this waiver through both our electronic data management system, CNPweb, and also through the use of a tracking spreadsheet.
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]: Indiana does not have any State statutory or regulatory barriers that apply to this waiver request. Indiana does want to expedite the availability of this option in schools that are currently eligible to operate FFVP and where concern of further spread of the COVID-19 is imminent.

8. Anticipated challenges State or eligible service providers may face with the waiver implementation: No challenges for State or sponsoring agencies are anticipated in implementation of this waiver. In fact, implementation of this waiver will decrease the challenges during unanticipated closures faced by sponsoring organizations and families who rely on nutritious snacks. Children who depend on FFVP snacks served at school will have an option to still receive nutritious snacks during unanticipated closures with a lessened risk of being exposed to the 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]: The requested waiver does not impact the overall cost of the program to the State or federal government. Only schools already awarded FFVP funds would be eligible for this waiver. All FFVP funds have already been allocated to awarded schools.

10. Anticipated waiver implementation date and time period:

   Requested State implementation date – April 14, 2020
   Duration of the waiver – June 30, 2020

11. Proposed monitoring and review procedures: The State Agency will continue to carry out current program monitoring and review procedures. Schools found to have noncompliance issues as related to this waiver will work with the State agency on an individualized corrective action plan and will conduct follow-up reviews scheduled as needed to ensure ongoing compliance.

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

   By December 31, 2020, the Indiana State Agency will report to FNS the following:
   - Number of SFAs electing to use this waiver
   - Number of schools that actually used the waiver during the program year
   - Amount of funds spent on FFVP during the start of this waiver to the end of the school year

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]:

   https://www.doe.in.gov/nutrition/scn-fresh-fruit-and-vegetable-program

14. Signature and title of requesting official:

   a. ________________________________
      Title: Julie Sutton, School and Community Nutrition Director

   b. Requesting official’s email address for transmission of response: jsutton@doe.in.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(l)(1)(A)(ii) of the NSLA

Regional Office Analysis and Recommendations:

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(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
(2) fax: (202) 690-7442; or
(3) email: program.intake@usda.gov.

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