

# Illinois Waiver Request

## Waiver to Allow Parents and Guardians to Pick Up Fresh Fruit and Vegetable Program (FFVP) Snack 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 Illinois State Board of Education (ISBE) 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:**

Illinois State Board of Education (ISBE)  
Nutrition Department  
100 N. First Street  
Springfield, IL 62777

Mark Haller, Director  
[mhaller@isbe.net](mailto:mhaller@isbe.net)  
217-782-2491

**2. Region:** Midwest

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

Any Illinois School Food Authority (SFA) approved to operate the Fresh Fruit and Vegetable Program (FFVP) and deemed by the State Agency to be in good standing that is continuing operations during the COVID-19 mandated school closure.

**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(I)(2)(A)(iii) and 12(I)(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 without their children present. 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, Illinois is now applying for a waiver for approved FFVP schools to provide the fresh fruit and vegetable snacks to parents or guardians without their children present. 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(I)(2)(A)(i) of the NSLA]:**

**Section 19 of the NSLA [42 U.S.C. 1769a]**

Section 19(b) of the National School Lunch Acts requires schools participating in the FFVP to make fresh fruits and vegetables available “to students.” ISBE 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.

**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 without their children present. Instead, FFVP approved sites would be permitted 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.

This request is being expedited due to an immediate response regarding the current outbreak of COVID-19 in the state of Illinois. If approved, all FFVP schools will be approved to use the waiver flexibility. SFAs will be required to notify ISBE of their election to use the waiver.

**7. 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.

**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.

**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(I)(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:**

This waiver will likely be utilized immediately upon receiving USDA approval and is to remain in effect through June 30, 2020.

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

We plan to continue our normal state agency monitoring schedule using desk and virtual reviews, if feasible.

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

Within one year of receiving the waiver, ISBE will report to FNS the following:

- Number of schools that used the waiver during the program year
- Amount of funds spent on FFVP during the start of this waiver to June 30, 2020.

**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]:**

[www.isbe.net/nutrition](http://www.isbe.net/nutrition)

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



Mark Haller, SNS  
Director  
Nutrition Department

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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:**

*In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA*

*programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.*

*Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.*

*To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:*

(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](mailto:program.intake@usda.gov).

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