



**CHILD NUTRITION PROGRAM  
STATE WAIVER REQUEST TEMPLATE**

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 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.

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

Idaho Department of Education  
Idaho Child Nutrition Programs  
Lynda Westphal, Director  
[ljwestphal@sde.idaho.gov](mailto:ljwestphal@sde.idaho.gov)  
PO Box 83720  
Boise ID 83720-0027

**2. Region:**  
Western (WRO)

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

This waiver will allow eligible sponsors in good standing who are not currently operating CEP in School Year (SY) 2023-2024 to opt-in to mid-year elections for CEP for single sites based on Direct Certification and enrollment data from either October 26, 2023 (SY23-24), or April 1, 2023 (SY22-23). Each School Food Authorities (SFA) electing to opt-in to this flexibility will need to advise the State agency (SA) by October 31, 2023, of their intent to operate. SFAs must

submit the required information to the SA within a specified timeframe for SA validation. SFAs electing this flexibility must submit complete and accurate DC and enrollment data by November 3, 2023, with a final deadline of November 15, 2023. If the SFA has not provided the required data within the specified timeframe, they will no longer be eligible for mid-year election. Upon approval, CEP percentages will be retroactive to the start of the 2023-2024 school year and claims previously processed will be adjusted.

**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]:**

Idaho State Department of Education, Child Nutrition division (Idaho DOE) is requesting a waiver for mid-year CEP elections in response to USDA releasing CEP regulations increasing options for schools dated September 26, 2023.

Because the final rule came into effect after the June 30 CEP election deadline for SY 2023-24, the SA requests to waive the June 30 election deadline to allow LEAs to elect CEP mid-year. Permitting mid-year CEP elections allows newly eligible schools to participate in CEP during SY 2023-2024. Idaho DOE will require each school to submit the information to the SA within the specified timeframe to be approved retroactively to the start of the 2023-2024 school year.

Idaho DOE is requesting the waiver to allow SFAs to express their intent to elect CEP by October 31, 2023, and submit documentation between November 3-15, 2023, in order for the SA to validate eligibility and determine claiming percentages in a timely manner with a goal of having all mid-year elections approved by November 30, 2023.

Idaho is requesting the allowance of data from either April 1, 2023, or October 26, 2023. If April 1, 2023, ISP data is not available for an SFA, Idaho DOE is requesting to waive the requirement that LEAs calculate the ISP using data as of April 1, to allow the ISP to be calculated using data from October 26, 2023, of the current school year to establish a new CEP cycle in SY 2023-2024. Since ISP data must be submitted as part of the CEP election process, SFAs unable to use April 1, 2023, data will use October 26, 2023, for the election of CEP.

In addition to the required DC and enrollment data, Idaho DOE will require an SFA to submit a financial attestation and plan to reimburse households for any pre-payment of meals to be submitted within the specified November 3-15, 2023, timeframe.

These waivers, issued under Section 12(l) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1760(l), will allow State agencies, school food authorities (SFAs), and sponsors to enable mid-year elections after the CEP ISP was reduced from 40% down to 25%. With this waiver, the Idaho DOE can approve those SFAs wishing to provide meals free to all children using the lower ISP. By allowing retroactive CEP reimbursement, the software programming difficulties caused by a mid-year release of the regulations will be lessened. Schools will be able to make meals free to all children from the start of the school year and adjusting of claims already submitted will be prior to the required submission of the FNS-10 reports.

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

Idaho Child Nutrition Programs is requesting a waiver of the following:

This waiver would be effective through November 30, 2023, when CEP elections must be submitted and approved to the State agency.

- The requirement that LEAs that intend to elect CEP in the following school year must notify the State agency and submit ISP documentation not later than June 30 of the current school year under Section 11(a)(1)(F)(x)(I) of the NSLA, 42 U.S.C. 1759a, and FNS regulations at 7 CFR 245.9(f)(4)(i); and
- The requirement that LEAs must calculate the CEP ISP using data as of April 1 of the prior school year under Sections 11(a)(1)(F)(iii)(I)(bb) and (a)(1)(F)(iv)(I)(bb) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1759a, and FNS regulations at 7 CFR 245.9(f)(3)(i), (f)(4)(i), (f)(4)(v)(A), and (f)(4)(viii).

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

The Idaho DOE will provide technical assistance to all sponsors intending to elect CEP midyear. This waiver will require the SA to update software systems to reflect the new ISP requirement and to allow for mid-year CEP election impacting claims for reimbursement.

**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]:**

There are no regulatory barriers at the State level.

**8. Anticipated challenges State or eligible service providers may face with the waiver implementation:**

Technology challenges may hamper the rapid timeline to get this benefit out to schools.

**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]:**

This waiver will not increase overall cost of the program to the Federal Government.

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

September 26, 2023, through November 30, 2023.

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

The State agency will monitor the number of SFAs and sites electing this option.

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

Idaho Child Nutrition Programs will provide FNS WRO the number of SFAs and sites electing this 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]:**

[https://www.sde.idaho.gov/cnp/sch-mp/nslp/files/waivers/SY24-12\(1\)-Waivers-CEP-Midyear-Election.pdf](https://www.sde.idaho.gov/cnp/sch-mp/nslp/files/waivers/SY24-12(1)-Waivers-CEP-Midyear-Election.pdf)

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

*Lynda Westphal* [electronic signature]

Title: Director

Requesting official's email address for transmission of response: [ljwestphal@sde.idaho.gov](mailto:ljwestphal@sde.idaho.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:**