

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:

Department of Workforce Services (DWS) - Eligibility Services Division
Natalie Barfuss, SNAP Program Specialist
nbarfuss@utah.gov
(801) 626-0248

2. Region: SWRO

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

DWS

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]:

DWS has an approved waiver to modify the definition of eligible food under SNAP to exclude "Soft Drink(s)" defined as a nonalcoholic beverage that is made with carbonated water and that is flavored and sweetened with sugar or artificial sweeteners from SNAP EBT purchases. "Soft drink" does not include a beverage that contains milk, milk products, soy, rice, or other milk substitutes, or that is greater than 50% vegetable or fruit juice by volume. Since SUN Bucks

funds are issued and spent using EBT cards that follow SNAP rules, this change is necessary to align the program rules in Utah with the approved SNAP waiver restricting these items. This waiver was requested to improve the health of Utah families utilizing SNAP benefits. These families have children who also qualify for SUN Bucks, and the change to exclude these items will have the same corresponding impact on the health of SUN Bucks participants.

The purpose of the grant is to improve the inefficient delivery of “promoting the general welfare and safeguarding health and well-being.” According to the Centers for Disease Control and Prevention, sugar-sweetened beverages are the leading source of added sugar in the American diet and provide little to no nutritional value. These beverages are associated with weight gain, obesity, type 2 diabetes, heart disease, kidney diseases, non-alcoholic liver disease, tooth decay and cavities, and gout.¹ Basu and Gardner state in their research that removing sugar sweetened beverages from the American diet would result in health improvement in the areas of obesity and type 2 diabetes.²

5. Specific Program requirements to be waived (include statutory and regulatory citations). [Section 12(l)(2)(A)(i) of the NSLA]: Pursuant to section 13A(b)(1)(A) of the NSLA, State-issued Summer EBT benefits may only be used to purchase food as defined by section 3 of the FNA. Since Summer EBT requirements fall within the NSLA, they do not fall within SNAP's waiver authority. Therefore, a separate 12(l) waiver is necessary to waive the definition of "food" under section 13A of the NSLA.

With this submission, Utah DWS intends to waive the 13A(b)(1)(A) NSLA definition of food for Summer EBT. This request follows an approved waiver of the definition of food under SNAP previously submitted separately to refocus the SNAP program on its designed and stated intent, “to promote the general welfare and safeguard the health and well-being” by encouraging SUN Bucks participants to purchase healthier food items by modifying the definition of “food and food products” to exclude this unhealthy and non-nutritious item. This waiver will extend the same benefit to SUN Bucks participants.

6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring: Submitting this waiver will align the EBT card purchasing rules for customers and the agency with SNAP rules for allowed and restricted items that can be purchased with the funds on the EBT card. The EBT system cannot maintain separate purchasing rules for EBT within a single state. There will be no impact on the state agency operation of SUN Bucks.

¹ Centers for Disease Control (2022), National Center for Health Statistics. [https://www.cdc.gov/nutrition/data-statistics/sugar-sweetened-beverages-intake.html#:~:text=Sugar%2Dsweetened%20beverages%20\(SSBs\),gout%2C%20a%20type%20of%20arthritis.&text=Limiting%20sugary%20drink%20intake%20can, and%20have%20healthy%20dietary%20patterns](https://www.cdc.gov/nutrition/data-statistics/sugar-sweetened-beverages-intake.html#:~:text=Sugar%2Dsweetened%20beverages%20(SSBs),gout%2C%20a%20type%20of%20arthritis.&text=Limiting%20sugary%20drink%20intake%20can, and%20have%20healthy%20dietary%20patterns).

² Basu, S., Seligman, H. K., Gardner, C., & Bhattacharya, J. (2014). Ending SNAP subsidies for sugar sweetened beverages could reduce obesity and type 2 diabetes. *Health Affairs*, 33(6), 1032-1039.

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: The SNAP waiver will be implemented January 1, 2026 and will be in effect for any remaining funds issued late in the season for SUN Bucks summer 2025 and will be in effect until the end of the waiver for SNAP in Utah. No challenge is expected with adding this program to the current restriction 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(l)(1)(A)(iii) of the NSLA]: Utah elected to co-load SUN Bucks benefits with SNAP benefits. The main restriction waiver under SNAP covers the costs of customer education. There may be costs associated with the evaluation component.

10. Anticipated waiver implementation date and time period: January 1, 2026 through the life of the SNAP waiver 13021, including any extensions that are approved.

11. Proposed monitoring and review procedures: Will be done with the main waiver 13021 under SNAP. Utah will partner with Create Better Health, our SNAP Ed partner. We will use this program to educate customers on making healthier choices and collect self-reports from customers who utilize this program to determine if customers make more nutritional choices about food or food products, including “soft drinks”.

12. Proposed reporting requirements (include type of data and due date(s) to FNS): These will follow the form and format of the SNAP waiver reports after the summer period in each year that SUN Bucks is run.

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]:

14. Signature and title of requesting official:

Natalie Barfuss

Title: Natalie Barfuss, SNAP Program Specialist

Requesting official’s email address for transmission of response: nbarfuss@utah.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: