



Food and  
Nutrition  
Service

January 26, 2021

Braddock  
Metro Center

Melissa Conner  
Arizona Department of Education  
1535 W. Jefferson St., Bin #7  
Phoenix, AZ 85007

1320  
Braddock  
Place  
Alexandria  
VA 22314

Dear Ms. Conner:

This letter is in response to the December 12, 2020 waiver request from the Arizona State Department of Education (ADE). ADE requested to waive the following statutory and regulatory requirements:

National School Lunch Program (NSLP)

- 42 USC 1769c(b)(1)(C)(i) and 7 CFR 210.18(c) - Timing of administrative reviews and cycle;
- 7 CFR 210.18(e)(3)(ii) – Requirement to review the Seamless Summer Option (SSO) the summer before or after a scheduled administrative review (AR); and
- 7 CFR 210.18(f) - Scope of review.

Summer Food Service Program (SFSP)

- 7 CFR 225.7(d)(2)(ii)(B) - Annually review sponsors whose reimbursements count as half the aggregate from the previous year.

Child and Adult Care Food Program (CACFP)

- 42 USC 1766(d)(2)(C)(i) and 7 CFR 226.6(m)(6) - Frequency and number of required institution reviews.

The Food and Nutrition Service (FNS) recognizes that due to Program operation changes as the result of *COVID 19: Child Nutrition Response #59*, allowing the Summer Food Service Program and the National School Lunch Program Seamless Summer Option to continue to operate through June 30, 2021, many Child Nutrition Program monitoring requirements will be difficult for State agencies and local operators to meet. In light of this, FNS will waive program monitoring requirements when a State agency provides a waiver request with an alternative plan that ensures program integrity is continued this year.

In its waiver request, ADE proposed an alternative oversight plan that includes extensive technical assistance and monitoring for all school food authorities (SFAs) and program sponsors. For NSLP, the administrative review cycle will be extended by one year to a four-year cycle. Any SFA that chose to operate SSO in school year (SY) 20-21 and is scheduled for an AR in SY 21-22 will receive a modified, enhanced SSO review during SY 20-21 and a full AR in SY 21-22. The enhanced SSO review will expand the scope of the review by including additional questions about waiver

utilization in the SFA's SSO program operation. Any SFAs that chose to operate SFSP in SY 20-21 will receive an SFSP review. For SFSP, the half-aggregate requirement will be waived for fiscal year (FY) 21. For CACFP, ADE will extend the review cycle for SFAs participating in the At-Risk program by one year, to a four-year cycle, to align with the AR cycle. ADE has not requested a waiver of SFA and sponsor level monitoring requirements on behalf of their SFAs and sponsoring organizations; therefore, all SFAs and sponsoring organizations will conduct reviews of their operations as required per regulations.

To ensure program integrity in the NSLP, ADE will conduct virtual ARs for all SFAs operating the NSLP during SY 20-21 that have not already received an AR this review cycle. ADE is requesting a waiver of the AR scope to expand the SSO review and to ensure the State can answer, to the maximum extent possible, those review questions that require on-site observation. ADE will answer each review question that requires on-site observation by working with the SFA and requesting additional documentation to provide detailed answers for those questions. FNS notes that ADE has opted into the on-site monitoring waiver and the process described in the oversight plan aligns with that waiver's expectations. Additionally, any SFA that chose to operate SSO or SFSP for SY 20-21 and has not yet received an AR this review cycle will be reviewed in SY 21-22 or SY 22-23. Any SFA scheduled to receive an AR in SY 20-21 that has switched to SSO will receive an off-site, enhanced SSO review in SY 20-21.

To ensure program integrity in the SFSP, ADE will continue to conduct reviews of SFSP sponsors to the maximum extent practicable by reviewing all sponsors according to the current three-year review cycle, along with any SFAs new to the SFSP. However, AZ may not meet the half-aggregate requirement. Due to the increase in SFSP participation and reimbursement, ADE does not know how many sponsors it would need to review and is therefore unsure that the State has the capacity to meet the requirement.

To ensure program integrity in the CACFP, ADE will continue to review all CACFP sponsors on the current three-year cycle except for SFAs who operate the At-Risk program and have chosen to operate SSO or SFSP in SY 20-21. Those At-Risk programs will be reviewed at the same time that the SFA receives an AR, at least once every four years for the current review cycle. This will streamline monitoring requirements for those SFAs.

Given the numerous flexibilities and waivers that FNS has provided during the novel coronavirus public health emergency, many of the current monitoring requirements and regulations do not efficiently address the oversight of the Child Nutrition Programs. Since these flexibilities alter the normal operations of the Programs, monitoring strategies must adapt. This waiver request, and activities within, does not increase the overall costs of the Program(s) to the Federal Government, rather it allows the State agency to alter its oversight activities in order to strengthen program integrity and conduct efficient monitoring. Through implementation of this waiver, the State agency

will continue to fulfill its oversight responsibilities and provide technical assistance which is critical to ensure that current program requirements are met.

Except for the requirements that remain in effect as discussed above, pursuant to section 12(l) of the Richard B. Russell National School Lunch Act (NSLA), (42 USC 1760(l)), FNS approves ADE's waiver request effective through:

- September 30, 2021 for SFSP monitoring requirements;
- June 30, 2023 for the NSLP AR review cycle extension; and
- September 30, 2023 for the CACFP review cycle extension.

Please note that this approval only extends the NSLP AR and CACFP review cycles and does not waive the requirement itself for a review cycles. FNS has determined that, in light of the exceptional circumstances of the current novel coronavirus public health emergency and other program flexibilities provided by FNS, waiving the above statutory and regulatory requirements will facilitate ADE's ability to successfully carry out the purpose of the Programs.

ADE's oversight plan, as discussed above, provides assurance that ADE will continue to conduct oversight and provide technical assistance upon approval of this waiver. These actions will help Program operators effectively operate Child Nutrition Programs that meet the nutritional needs of eligible Program participants. In addition, as part of this waiver, ADE must take program integrity measures to identify any misuse of Federal funds and identify fraudulent activities.

The waiver authority at section 12(l)(5) of the NSLA requires that FNS review the performance of any State that is granted a waiver and terminate the waiver if the performance of the State has been inadequate to justify a continuation of the waiver. Beginning on April 1, 2021, FNS is requiring that, for the duration of this waiver, ADE provide the Southwest Regional Office (SWRO) a quarterly written report. The report must provide information on how ADE is implementing its oversight plan and quantify the impact of the waiver, as described below.

The report must include:

- A description of how the waiver impacted meal service operations and eligible participants access to nutritious meals and snacks;
- A description of how the waiver has facilitated the State agencies oversight abilities and responsibilities;
- A summary of program integrity measures taken to identify any misuse of Federal funds and identify fraudulent activities, and, if anything was identified, any actions taken;

- A description of how the waiver impacted the quantity of paperwork necessary to administer the Program(s); and
- A summary of any technical assistance measures that were provided.

Should ADE determine this waiver is no longer necessary prior to expiration of the dates listed above, please notify the SWRO.

FNS understands that these are challenging times for all and that many State agencies and Program operators face significant resource and time constraints. We are committed to supporting State agencies and Program operators as they strive to run successful programs and meet Child Nutrition Program requirements in order to provide nutritious food to eligible participants.

If you have any questions or concerns, please contact the SWRO.

Sincerely,



Jessica Saracino  
Acting Director  
Program Monitoring and Operational Support Division  
Child Nutrition Programs