



Food and
Nutrition
Service

October 9, 2020

Braddock
Metro
Center

Kim Frinzell, RD
Director, Nutrition Services Division
California Department of Education
1430 N Street, Suite 4503
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Dear Ms. Frinzell:

This letter is in response to the California Department of Education (CDE) waiver request submitted May 8, 2020 to exempt review cycle requirements for sponsors in good standing who are operating the Seamless Summer Option (SSO) and the Summer Food Service Program (SFSP) during the novel coronavirus (COVID-19) pandemic. CDE requests to waive review requirements beyond the onsite monitoring flexibilities granted in the nationwide monitoring waivers (“COVID-19 Child Nutrition Response #9” and “COVID-19 Child Nutrition Response #10”). Specifically, CDE requests to waive the SSO requirements at 7 CFR 210.18(e)(3)(ii), and SFSP requirements at 7 CFR 225.7(d)(ii)(B), 225.7(d)(ii)(D) and (E), which would fully waive SSO review requirements and partially waive SFSP review requirements. Pursuant to 12(l) of the NSLA (42 USC 1760(l)), FNS approves CDE’s waiver request.

In its request, CDE asserts that program operators do not have the resources to complete monitoring of the SSO and SFSP programs. FNS understands many school food authorities (SFAs) in California are operating SSO during unanticipated school closures due to the COVID-19 pandemic, resulting in additional SSO reviews CDE must perform this summer. SFAs operate the National School Lunch Program during the school year therefore, SFAs in good standing operating SSO are at a low risk for program integrity issues. It is with that understanding FNS approves CDE’s request to waive SSO monitoring requirements at 210.18(e)(3)(ii) for this summer. Additionally, FNS approves CDE’s request to waive the requirements at 7 CFR 225.7(d)(ii)(B), 225.7(d)(ii)(D) and (E). According to CDE, should this waiver be approved, they plan to postpone and prioritize approximately 31 SFSP reviews in SY 2020-21. CDE stated they plan to continue to review non-governmental agencies approved to operate the SFSP and any program operator that experienced significant operational problems in the year prior.

FNS recognizes that during the COVID-19 outbreak, State agencies face higher administrative burden and safety concerns while handling a dramatic increase in SFAs operating SSO and SFSP. Based on the exceptional circumstances relating to the declaration of a public health emergency due to COVID-19 by the U.S. Department of Health and Human Services, effective January 27, 2020, FNS approves CDE’s waiver request, effective through September 30, 2020. While FNS is waiving 7 CFR 210.18(e)(3)(ii) for SFAs who operated SSO during the unanticipated school closures, and 7 CFR 225.7(d)(ii)(B), 225.7(d)(ii)(D) and (E) for SFSP program operators in good

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standing, CDE is still expected to review program operators which experienced significant operational challenges in the year prior and fulfil the monitoring requirements at 7 CFR 225.7(d)(ii)(A) .

The waiver authority at section 12(l) of the NSLA requires that FNS review the performance of any State agency or eligible service provider that is granted a waiver. Therefore, CDE must provide the Western Regional Office a written report by December 31, 2020. The report must provide information quantifying the impact of the waiver for the respective program year, as described below, in order to help inform national policy. The report must include the following:

- A description of how the waiver impacted meal service operations, children's access to nutritious meals, and participation in SSO and SFSP;
- A description of how the waiver impacted the quantity of paperwork necessary to administer the program;
- The total number of SSO and SFSP institutions and facilities affected by this waiver;
- A description of whether and how this waiver resulted in improved services to Program participants.

FNS appreciates CDE's commitment to meet the nutritional needs of Program participants during a challenging time. If you have questions, please contact the FNS Western Regional Office.

Sincerely,



Sarah Smith-Holmes
Director
Program Monitoring and Operational Support Division

Electronic Copy: GeNam Chew, WRO

David Hazeleaf, CDE