



Food and  
Nutrition  
Service

Braddock  
Metro Center

1320  
Braddock  
Place  
Alexandria  
VA 22314

April 5, 2021

Ms. Lindsey Palmer, MS, RDN  
Director of Child Nutrition Programs  
Office of the State Superintendent of Education  
1050 First St. NE, 6th Floor  
Washington, DC 20002

Dear Ms. Palmer:

This letter is in response to the February 8, 2021 waiver request from the District of Columbia Office of the State Superintendent (OSSE). OSSE 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 210.19(a)(5) – Food Service Management Company (FSMC) review cycle requirements;
- 7 CFR 210.8(a)(1) – SFA review of lunch services by February 1;
- 7 CFR 220.11(d)(1) – SFA review of breakfast services by February 1;
- 7 CFR 210.9 (c)(7) – Afterschool care reviews;

Child and Adult Care Food Program (CACFP)

- 7 CFR 226.6(m)(2) – Review priorities;
- 7 CFR 226.6(m)(3)(i) – Review content: Recordkeeping;
- 7 CFR 226.6(m)(3)(iv) – Review content: Any applicable instructions and handbooks issued by FNS and the Department; and any instructions and handbooks issued by the State agency which are not inconsistent with the provisions of this part;
- 7 CFR 226.6(m)(3)(vii) – Review content: If an independent center, observation of a meal service;
- 7 CFR 226.6(m)(3)(viii) – Review content: If a sponsoring organization, training and monitoring of facilities;
- 7 CFR 226.6(m)(3)(xii) – Review content: All other Program requirements;
- 42 USC 1766(d)(2)(C)(i) and 7 CFR 226.6(m)(6) - Frequency and number of required institution reviews;

Summer Food Service Program (SFSP)

- 7 CFR 225.7(d)(2)(ii)(A) – Review new sponsors within the first year of operating;
- 7 CFR 225.7(d)(2)(ii)(D) – Review every sponsor at least once every three years;

- 7 CFR 225.15(d)(2) – Visit sites at least once during the first week of operation; and
- 7 CFR 225.15(d)(3) – Review food service operations at each site at least once during the first four weeks of operation.

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, OSSE proposed an alternative oversight plan for NSLP, CACFP, and SFSP that includes extensive technical training for all school food authorities (SFAs) and sponsoring organizations. For NSLP, the administrative review (AR) and food service management company (FSMC) review cycles will each be extended by one year to a four-year cycle. OSSE also requests a waiver of local monitoring requirements for SFAs operating NSLP. For CACFP, OSSE requests to implement a two-tiered review system, differing in review content for high-risk and low-risk institutions, for reviews conducted in fiscal year (FY) 21. Additionally, OSSE requests to waive the requirement to review new sponsoring organizations, due to the impact of the public health emergency, and to align SFA At-Risk reviews with the four-year AR cycle. OSSE did not request a waiver of monitoring requirements on behalf of their CACFP sponsoring organizations; therefore, all sponsoring organizations will conduct reviews of their operations as required per regulations. For SFSP, OSSE requests to waive the requirement to review new sponsors within the first year and extend the review cycle to streamline reviews across programs. OSSE also requests a waiver of local monitoring requirements for SFAs and sponsoring organizations operating SFSP.

To ensure program integrity in the NSLP, OSSE will continue to conduct formal monitoring for SFAs operating the NSLP. While the majority of SFAs have chosen to operate the Seamless Summer Option (SSO) or SFSP, 6 SFAs that were scheduled for an AR in SY 20-21 are operating NSLP and will receive an AR. The remaining reviews in the current cycle will be distributed over the next two SYs. Additionally, procurement and FSMC reviews will be completed at the same time as the AR. In addition to the six ARs, OSSE will conduct virtual pre-site visits of new sites, ensure the completion of the second review of applications, and collect and review all FNS 742s to ensure compliance with verification. OSSE will provide technical assistance and training to all SFAs to ensure that each SFA provides meals in accordance with program regulations and available waivers. OSSE will continue to review claims on a monthly basis to ensure that Federal funds are spent appropriately. SFAs will still be required to complete local monitoring of the NSLP, School Breakfast Program (SBP)

and Afterschool Snack Program, however, SFAs will have until the last day of school, rather than February 1, to complete those reviews.

To ensure program integrity in the CACFP, OSSE will complete the reviews that were paused and those that were not started in FY20 starting in FY21. In FY21, OSSE will complete all reviews virtually and use a risk assessment to determine the review scope. High risk institutions, which include any incomplete FY 20 review, any institution that meets the USDA definition of high risk, any institution that demonstrates seriously deficient activities in FY 21, and any institution with major findings in a previous review, such as a high percentage of incorrect income eligibility statements, civil rights findings, or financial mismanagement, will receive a full review. Low risk institutions include any institution whose previous review resulted in minimal findings. Low risk institutions will receive a focused review that includes previous findings, one-week menu review, five-day reconciliation (a comparison of meal counts and attendance), review of meal eligibility forms, and license confirmation. Any new institution will be reviewed by the end of the following FY of its entry into the program. OSSE will continue to collect annual applications to review budgets and financial activities. Additionally, OSSE will continue to review SFA CACFP At-Risk programs, but will do so on a four-year cycle in order to align with the new AR schedule.

To ensure program integrity in the SFSP, OSSE will continue formal monitoring of the program. For SFAs that received an NSLP administrative review in the previous 12 months, OSSE will implement USDA FNS streamlining guidance, and those institutions will not receive an additional review under SFSP. For new SFAs that have not received an NSLP review in the previous FY, OSSE will complete an SFSP administrative review during FY 21. OSSE will postpone one new SFA's SFSP review to FY 22 because it is in good standing with NSLP and to balance workload requirements. OSSE will also complete site visits of new sites, which provides a snapshot of SFSP activities and use of funds. In addition, OSSE collects and reviews each institution's budget as part of the application. Sponsors will continue to conduct local monitoring requirements, however, they will be given one year to complete reviews rather than a review of each site at least once during the first week of operation and a review of food service operations at least once during the first four weeks of operation.

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.

With the challenge of reviewing CACFP sponsors due to COVID-19 closures and other disruptions to both State Agency and sponsoring institution operations, for CACFP reviews OSSE requested a waiver of the regulatory requirement to review all other program requirements. FNS will provide a separate response regarding the requirement at 7 CFR 226.6(m)(3)(xii) and does not approve the request to waive this regulatory citation at this time.

Except for the requirement that remains 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 OSSE's waiver request effective through:

- June 30, 2021 for NSLP monitoring requirements;
- September 30, 2021 for CACFP and SFSP monitoring requirements;
- June 30, 2023 for the NSLP administrative review cycle extension; and
- September 30, 2024 for the SFSP and CACP review cycle extension.

Please note that this only extends the AR, FSMC, CACFP and SFSP review cycles and does not waive the requirement itself for a review cycle. 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 OSSE's ability to successfully carry out the purpose of the Programs.

OSSE's oversight plan, as discussed above, provides assurance that OSSE 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, OSSE 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 July 1, 2021, FNS is requiring that for the duration of this waiver, OSSE provide the Mid-Atlantic Regional Office (MARO) quarterly written report. The report must provide information on how OSSE 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 OSSE determine this waiver is no longer necessary prior to the expiration of the dates above, please notify the MARO.

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 MARO.

Sincerely,



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