



Food and  
Nutrition  
Service

February 2, 2021

Braddock  
Metro Center

Ms. Lakeisha Hood  
Director of Food, Nutrition and Wellness  
Florida Department of Agriculture and Consumer Services  
The Holland Building  
600 S. Calhoun St. (H2)  
Tallahassee, FL 32399

1320  
Braddock  
Place  
Alexandria  
VA 22314

Dear Ms. Hood:

This letter is in response to the January 22, 2021, waiver request from the Florida Department of Agriculture and Consumer Services (FDACS). FDACS requested to waive the following statutory and regulatory requirements:

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)(B) Annually review sponsors whose reimbursements count as half the aggregate from the previous year;
- 7 CFR 225.7(d)(2)(ii)(C) Annually review sponsors who had operational issues the year prior;
- 7 CFR 225.7(d)(2)(ii)(D) Review every sponsor at least once every three years;
- 7 CFR 225.7(d)(2)(ii)(E) Conduct reviews of at least 10 percent of each sponsor's site or one site, if that's greater;
- 7 CFR 225.7(d)(2)(iii)(3) Conduct follow up reviews of sponsors and sites as necessary;

National School Lunch Program (NSLP)

- 7 CFR 210.8(a)(1) and 220.11(d)(1) SFA reviews by February 1; and,
- 7 CFR 210.9(c)(7) Afterschool care reviews (*for SFSP sponsors not providing afterschool care meals*).

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 SFSP and the NSLP Seamless Summer Option (SSO) 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.

FDACS requested a waiver of SFSP and SSO State agency monitoring requirements and proposed an alternative oversight plan that includes conducting reviews of SFSP sites based on feedback from a USDA-OIG audit. To ensure program integrity, FDACS

will conduct on-site monitoring reviews in counties with the highest number of SFSP sites using a third-party contractor. FDACS will then conduct a virtual review of any SFSP sponsor that experienced an operational issue during the contractor's on-site review. Operational issues include repeat findings during follow-up on-site reviews, substantially different meal counts on the day of the on-site review than the last five days of meal count records, and/or systemic findings during on-site monitoring reviews. To identify any potentially fraudulent activity, FDACS will conduct claim validation reviews for SFSP sponsors who exhibit any red flags and for all new NSLP sponsors operating SSO for the first time. FSMC reviews will continue to be conducted by the respective local health and food safety authority. FDACS is requiring SFSP sponsors to continue to complete the preoperational visits for new sites, the first week review, and the first four week site review to the maximum extent practicable, either via desk review or on-site.

To ensure program integrity in NSLP, FDACS will continue to conduct administrative reviews (ARs) off-site for sponsors scheduled for a review in school year (SY) 20-21. Sponsors that were on the school meals AR schedule for SY 20-21 that are operating SSO or SFSP will be reviewed during SY 21-20. FDACS will adjust the AR cycle accordingly until the completion of the four-year cycle. Local agency procurement reviews will continue to be conducted in conjunction with corresponding ARs. FDACS has instructed NSLP sponsoring organizations to continue monitoring off-site to the maximum extent practicable by conducting desk audits using the on-site review forms. NSLP sponsoring organizations currently operating SFSP will not be required to meet the NSLP monitoring requirements.

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 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.

Pursuant to section 12(l) of the Richard B. Russell National School Lunch Act (NSLA), (42 USC 1760(l)), FNS approves FDACS's waiver request through June 30, 2021, for NSLP monitoring requirements and September 30, 2021, for SFSP monitoring requirements. 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 FDACS's ability to successfully carry out the purpose of the Programs.

FDACS's oversight plan, as discussed above, provides assurance that the State 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, FDACS 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, FDACS provide the Southeast Regional Office (SERO) a quarterly written report. The report must provide information on how the State 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; and
- A summary of any technical assistance measures that were provided.

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

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 FNS SERO.

Sincerely,

A handwritten signature in blue ink, appearing to read "Saracino", is written over a horizontal line.

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