



Food and
Nutrition
Service

Braddock
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February 2, 2021

Ms. Kala Shipley
Chief, Bureau of Nutrition and Health Services
Iowa Department of Education
400 E 14th Street
Des Moines, Iowa 50319-0146

Dear Ms. Shipley:

This letter is in response to the January 13, 2021, revised waiver request from the Iowa Department of Education, Bureau of Nutrition and Health Services (IDOE). IDOE 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;
- 42 USC 1769c(b)(6)(A) and 7 CFR 245.11 (a)-(b) Notification of second review of applications;

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)(E) Conduct reviews of at least 10 percent of each sponsor's sites or one site, if that's greater;
- 42 USC 1761(n)(4) and 7 CFR 225.7(d)(2)(iii)(6) Inspect FSMC facilities;
- 7 CFR 225.15(d)(2) Visit sites at least once during the first week of operation;
- 7 CFR 225.15(d)(3) Review food service operations at each site at least once during the first four weeks of operation;

Child and Adult Care Food Program (CACFP)

- 7 CFR 226.6(m)(2) Review priorities;
- 7 CFR 226.6(m)(3) Review content:
 - 7 CFR 226.6(m)(3)(i) Recordkeeping;
 - 7 CFR 226.6(m)(3)(vi) Compliance with the requirements for annual updating of enrollment forms;
 - 7 CFR 226.6(m)(3)(vii) If an independent center, observation of a meal service;
 - 7 CFR 226.6(m)(3)(x) If a sponsoring organization, implementation of a household contact system;

- 7 CFR 226.6(m)(4) Review of sponsored facilities;
- 42 USC 1766(d)(2)(C)(i) and 7 CFR 226.6(m)(6)(i)-(iii) Frequency and number of required institution reviews;
- 42 USC 1766(d)(1)(B)(i)(I) and 7 CFR 226.16(d)(1) Pre-approval visits;
- 7 CFR 226.16(d)(4)(i) Reviews that assess whether the facility has corrected problems noted on the previous review(s) and an assessment of the facility's compliance with:
 - 7 CFR 226.16(d)(4)(i)(F) The annual updating and content of enrollment forms;
- 7 CFR 226.16(d)(4)(ii) Reconciliation of meal counts;
- 42 USC 1766(d)(2)(B)(i)(I); 42 USC 1766(d)(2)(B)(ii) and 7 CFR 226.16(d)(4)(iii)(A)-(D) Frequency and type of required facility reviews; and,
- 7 CFR 226.16(d)(4)(vi) Notification of unannounced 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 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.

In its waiver request, IDOE proposed a pause in formal monitoring for NSLP during school year (SY) 20-21 to alleviate the administrative burden for the State agency and school food authorities (SFAs). IDOE will extend their current five-year AR cycle by one year. To ensure program integrity, IDOE will provide technical assistance (TA) to SFAs through monthly subject-specific recorded webinars, regional school food service director meetings, and one-on-one meetings. SFAs implementing SFSP with the NSLP meal pattern will continue to receive meal pattern training and TA. To identify potentially fraudulent activities, IDOE will prioritize TA for SFAs determined to be high risk based on their SA Risk Assessment Report. IDOE will continue to conduct regularly scheduled trainings for new food service directors, and claims will be periodically reviewed to ensure the correct number of meals are counted and claimed under the appropriate program per child, per day. IDOE will develop TA resources for Residential Child Care Centers (RCCs) and procurement training for SFAs preparing competitive selection documents for SY 21-22.

For SFSP, IDOE will review sponsors that traditionally operate SFSP according to the current established three-year cycle. Due to the large increase in SFSP sponsors and reimbursement amounts during the COVID-19 pandemic, IDOE requested a waiver of new sponsor reviews and those needed to meet the half the aggregate of reimbursement requirement. To ensure program integrity, IDOE will continue to review new sponsors that are traditionally eligible to participate in the SFSP. FSMC facilities will be reviewed as part of the sponsor review using documents provided, such as menu plans and delivery receipts. IDOE will provide targeted TA for new SFSP sponsors. SFSP

sponsors will be encouraged to conduct site visits during the first week of operation, and site visits completed in the first month will continue to be required. IDOE nutrition consultants will provide one-on-one TA, schedule routine regional conference calls with SFAs, provide monthly webinar training, develop resource materials, and record webcast modules to provide guidance on key SFSP program areas. To identify fraudulent activities, IDOE's application and claims system uses edit checks to ensure claims align with approved program applications. IDOE nutrition consultants will monitor trends in claim reimbursement and will work to develop and fine-tune the policies and procedures to ensure that steps are in place for program compliance and integrity.

For CACFP, IDOE will conduct virtual reviews in fiscal year (FY) 20-21 or move reviews to FY 21-22. IDOE intends to comply with the two or three-year review requirements and complete virtual reviews of 33.3 percent of organizations in FY 20-21, but is requesting a waiver of these requirements in case they are not able to. IDOE will target reviews based on previous review dates and a risk assessment that evaluates staff turnover, consultant recommendations, complaints, and problems or serious deficiencies identified on the last review. IDOE will review a reduced but representational number of documents required under 7 CFR 226.6(m)(3) submitted online. IDOE will complete virtual reviews of a reduced number of facilities, which will be selected by assessing total reimbursement received, length of time in CACFP, and any previous serious deficiency findings. IDOE will virtually review a reduced number of sponsored facilities prior to the sponsoring organization's review, but requested to waive the requirement to complete the five-day reconciliation for every provider. IDOE also specifically requested a waiver of 7 CFR 226.6(m)(6)(i), which requires CACFP reviews once every three years, for operators of CACFP at-risk afterschool care. Instead, IDOE will align CACFP at-risk reviews with the NSLP review cycle to encourage participation and reduce administrative burden. IDOE will add CACFP at-risk questions to the online NSLP application to replace the requirement to complete a separate CACFP application. CACFP at-risk reviews will be conducted every five years cooperatively with NSLP reviews, and formal monitoring will be paused during SY 20-21.

CACFP sponsoring organizations in Iowa will continue to provide TA and conduct monitoring, but due to the unpredictability of the COVID-19 pandemic, IDOE requested the flexibility that sponsors complete two of the three required reviews of facilities. Reviews will be conducted as announced desk reviews and will include all required review elements. IDOE will encourage sponsors to complete meal observations in FY 20-21 where possible. IDOE has also requested a waiver of the requirement that sponsoring organizations of day care homes review each new facility within the first four weeks of operation due to the unpredictability of sponsor staffing and provider's business. To maintain program integrity, IDOE will continue to provide technical assistance and training through memos, virtual training events, and online training opportunities to maintain contact with sponsors and provide guidance to ensure

compliance with CACFP regulations. To identify fraudulent activities, sponsor reported administrative costs are monitored by IDOE during the fiscal year.

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 cost 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 IDOE's waiver request effective through:

- June 30, 2021, for NSLP monitoring requirements;
- September 30, 2021, for CACFP and SFSP monitoring requirements; and,
- June 30, 2025, for the NSLP review cycle and CACFP at-risk review cycle extension.

Please note that this waiver only extends the review cycles listed above 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 IDOE's ability to successfully carry out the purpose of the programs.

IDOE'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, IDOE 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, IDOE provide the FNS Midwest Regional Office (MWRO) a quarterly written report. The report must provide information on how IDOE 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 IDOE determine this waiver is no longer necessary prior to the expiration of the dates listed above, please notify the FNS MWRO.

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 MWRO.

Sincerely,



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