



Food and  
Nutrition  
Service

December 23, 2020

Braddock  
Metro Center

Mr. John Dupre  
Director of Child Nutrition Programs  
Louisiana Department of Education  
P.O. Box 94064  
Baton Rouge, LA 70804-9064

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Braddock  
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Alexandria  
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Dear Mr. Dupre:

This letter is in response to the December 15, 2020 waiver request from the Louisiana Department of Education (LDOE). LDOE requested to waive the following regulations:

School Meal Programs

- 7 CFR 210.19(a)(5) the requirement to review school food authorities with a food service management company using a 3- year review cycle.

Summer Food Service Program (SFSP)

- 7 CFR 225.7(d)(2)(ii)(A) which requires the State agency to conduct a review of every new sponsor at least once during the first year of operation.

Child and Adult Care Food Program (CACFP)

- 42 USC 1766(d)(2)(C)(i) [7 CFR 226.6(m)(6)(ii)] which requires the review of sponsoring organizations with more than 100 facilities to be reviewed at least once every two years; and
- 42 USC 1766(d)(2)(B)(i)(I) and 42 USC 1766(d)(2)(B)(ii) [7 CFR 226.16(d)(4)(iii)] which requires sponsors to meet frequency and type of required facility 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, LDOE proposed an alternative oversight plan that includes conducting school meal program administrative reviews as required per their existing Administrative Review 5- Year Cycle Waiver. Given that only 14 school food authorities (SFA) are operating the school meal programs, administrative reviews that were scheduled for school year (SY) 20-21, will be completed in SY 21-22. LDOE will continue to conduct Procurement Reviews using a 5-year cycle and has requested to

review SFAs with a food service management company using a 5- year cycle. This waiver approval will align the state's administrative review and food service management company review cycles. All other provisions in 7 CFR 210.19(a)(5) will be completed by the state. For SFAs that administrative reviews or procurement reviews are postponed, LDOE will provide technical assistance. The technical assistance will focus on issues related to previous review findings as well as the integrity of the meal counting and claiming system in order to ensure that reimbursable meals and the correct number of meals are counted and claimed per child, per day. LDOE will also focus on Resource Management areas.

For SFSP, LDOE will review all non-SFA new sponsors within the first year of operation, but will not review new SFA sponsors as these SFAs will receive technical assistance and will be reviewed under the school meal programs in the proceeding SYs. All other SFSP Program review requirements will be met.

For CACFP, LDOE will attempt to safely conduct all required monitoring. For any reviews that cannot be completed, LDOE will postpone the review and provide technical assistance to any sponsors originally scheduled for a review in fiscal year 2021. During the technical assistance that LDOE is providing, institutions will provide requested documents and paperwork and LDOE will conduct virtual meetings. LDOE will evaluate materials for compliance and provide technical assistance on any non-compliant areas. LDOE will continue to conduct monitoring reviews at least once every 3 years, but to account for any challenges in meeting the requirement to review organizations that have more than 100 facilities at least once every 2 years, LDOE has requested to waive this provision.

CACFP sponsors in Louisiana will continue to provide technical assistance and conduct monitoring, but due to the unpredictability of the COVID-19 pandemic, the State agency requests a waiver of the local monitoring requirements found at 7 CFR 226.16(d)(4)(iii). In its place sponsors will conduct two reviews of their CACFP facilities and only one CACFP facility review is required to be unannounced. LDOE has requested to waive the requirement that the unannounced review include observation of a meal service and that not more than six months may elapse between reviews, due to the current operating challenges of sponsors and given that, only two reviews will be conducted. All other provisions in 226.16 will be met.

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 the activities within do 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 LDOE's request to extend their food service management company review cycle required at 210.19 (a)(5) through June 30, 2024. Please note that this only extends and aligns the food service management review cycle with the previously approved Administrative Review 5- year cycle and does not waive the requirement itself for a food service management review cycle. Additionally, FNS approves LDOE's remaining waiver requests referenced above effective through September 30, 2021. 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 LDOE's ability to successfully carry out the purpose of the Programs.

LDOE'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, LDOE 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 January 01, 2021, FNS is requiring that for the duration of this waiver, LDOE provide the FNS Southwest Regional Office (SWRO) a quarterly written report. The report must provide information on how LDOE 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 LDOE determine this waiver is no longer necessary prior to June 30, 2024 for the Food Service Management Company review cycle extension or June 30, 2021 for the other items that have been waived, please notify the FNS 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 FNS SWRO.

Sincerely,

A handwritten signature in black ink that reads "Sarah E. Smith-Holmes". The signature is written in a cursive style with a large initial 'S'.

Sarah Smith-Holmes  
Director  
Program Monitoring and Operational Support Division  
Child Nutrition Programs