



Food and
Nutrition
Service

November 19, 2020

Braddock
Metro
Center

Kimberly Vumbaco
Director
New York State Education Department
89 Washington Avenue, Room 375-EBA
Albany, NY 12234

1320
Braddock
Place
Alexandria
VA 22314

Dear Ms. Vumbaco:

This letter is in response to the New York State Education Department's (SED) waiver request, received September 24, 2020. SED requested to waive the timeline in which, after receipt of a complete application to participate in the Summer Food Service Program (SFSP), the State agency must notify the applicant if the application is approved or denied. Specifically, SED requested a statewide waiver of SFSP regulations under 7 CFR 225.6(b)(3) which require that within 30 days of receiving a complete and correct application, the State agency shall notify the applicant of its approval or disapproval. Pursuant to section 12(l) of the NSLA, FNS approves SED's waiver request.

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 SED's waiver request. SED states that they have received an unprecedented number of program applications to operate SFSP during the pandemic, including a substantial number of new applications. SED asserts that responding to this high volume of applications has placed an administrative burden on agency staff. Flexibility with response deadlines will facilitate SED's ability to diligently and expeditiously review applications even if more than 30 days are required to make a determination on an application. FNS approves SED's request to waive the requirement to notify a new or renewing institution applying for participation in the program within 30 calendar days of the State agency's receipt of a complete application if their application is approved or denied. This waiver is effective immediately through December 31, 2020.

While SED requested the waiver through September 30, 2021, FNS limited the duration of the waiver to assess its impact and the need for continued flexibility. FNS recommends that SED continue to process applications as expeditiously as possible through the duration of this waiver. SED should also timely notify sponsors of whether their application is incomplete. FNS recognizes that there may be a continued need for this waiver, and will carefully assess the situation on an ongoing basis. Therefore, SED may request an extension to this waiver if the situation warrants it.

The waiver authority at section 12(l) of the NSLA requires FNS to review the performance of any State or eligible service provider that was granted a waiver. Therefore, by December 31, 2020, SED must provide to the FNS Northeast Regional

Office a written report quantifying the impact of the waiver, as described below. 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 SFSP;
- A description of how the waiver reduced the quantity of paperwork necessary to administer the program;
- The total number of applicants to which the State agency responded after the 30 day requirement;
- A summary of benefits and challenges associated with the waiver.

FNS appreciates SED's commitment to work with sponsors to find efficiencies that balance the needs of local communities with cost-effective program management and integrity. If you have questions, please contact the Northeast Regional Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Ang M Kline". The signature is written in a cursive, flowing style.

Angela M. Kline
Director
Policy and Program Development Division

Electronic Copy: Jan Kallio, NERO