



Food and
Nutrition
Service

December 17, 2020

Braddock
Metro Center

1320
Braddock
Place
Alexandria
VA 22314

Jennifer Weber
Executive Director of Child Nutrition
Oklahoma State Department of Education
2500 North Lincoln Boulevard, Room 310
Oklahoma City, Oklahoma 73105-4599

Dear Ms. Weber:

This letter is in response to the November 16, 2020 waiver request from the Oklahoma State Department of Education - Child Nutrition Programs (OSDE-CNP). OSDE-CNP requested to waive the following statutory and regulatory requirements:

- 42 USC 1769c(b)(1)(C)(i) & 7 CFR 210.18(c), the requirement that State agencies conduct administrative reviews of all school food authorities participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) at least once during a 3-year review cycle;
- 7 CFR 210.19(a)(5), the requirement that each State agency perform a review of each school food authority contracting with a food service management company, at least once during each 3-year period; and
- 7 CFR 210.8(a)(1) and 220.11(d)(1), the requirement that SFAs must review lunch service at all schools and breakfast service at a least 50% of schools under its jurisdiction by Feb 1.

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 OSDE-CNP proposed an alternative oversight plan that includes a 1-year extension to their 5-year NSLP administrative review (AR) cycle. Although OSDE-CNP requested a waiver for the requirement to complete FSMC reviews on a 3-year cycle (7 CFR 210.19(a)(5)) they still intend to review about 20 of the originally scheduled 78 food service management company reviews as part of their monitoring plan to ensure program integrity. Schools that don't contract with a food service management company will have their Procurement Review next year when they receive their AR. To ensure continued program integrity, OSDE-CNP will complete technical assistance (TA) on any school participating in SSO. OSDE-CNP has created a TA

checklist to use when conducting these visits. These TA visits will be focused on the schools that were due an AR and could include other schools as needed

For the Summer Food Service Program (SFSP), OSDE-CNP will continue to review any new SFSP program operators, any with operational weaknesses from the summer of 2020, and any programs that are due for their three-year review; TA and trainings will continue to be conducted.

For the Child and Adult Care Food Program (CACFP), OSDE-CNP will conduct CACFP reviews as required per regulations; TA and trainings will continue to be conducted.

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 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 OSDE-CNP's NSLP administrative review cycle extension waiver request through June 30, 2025, and all other cited NSLP review waiver requests through June 30, 2021. Please note that this only extends the NSLP administrative review cycle and does not waive the requirement itself for an administrative 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 requirement will facilitate OSDE-CNP's ability to successfully carry out the purpose of the Programs.

OSDE-CNP'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, OSDE-CNP 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,

the OSDE-CNP's provide the FNS Southwest Regional Office (SWRO) a quarterly written report. The report must provide information on how the OSDE-CNP 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 the OSDE-CNP determine this waiver is no longer necessary prior to the expiration of the dates listed above, 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