



Food and  
Nutrition  
Service

January 26, 2021

Braddock  
Metro Center

Lourdes N. Garcia Santiago  
Acting Director  
State Agency, Food and Nutrition Services  
PR Department of Education  
P.O. Box 190759  
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Dear Ms. Garcia Santiago:

This letter is in response to the December 23, 2020, waiver request from the Puerto Rico State Agency, Department of Education (PRSA-DE) in which PRSA-DE requests to waive the following statutory and regulatory requirements:

National School Lunch Program (NSLP):

- 42 USC 1769c(b)(1)(C)(i) & 7 CFR 210.18(c): Timing of administrative reviews and cycle.

Summer Food Service Program (SFSP):

- 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;
- 7 CFR 225.15(d)(2): Visit sites at least once during the first week of operation; and
- 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):

- 42 USC 1766(d)(2)(C)(i) & 7 CFR 226.6(m)(6)(i): Review every three years for under 100 sites; and
- 42 USC 1766(d)(2)(C)(i) & 7 CFR 226.6(m)(6)(ii): Review every two years for over 100 sites.

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 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, PRSA-DE proposes an alternative oversight plan that for NSLP includes extending its current 3-year AR cycle for 2 years and aligning its procurement reviews with the 5-year AR cycle. PRSA-DE will use this short pause during fiscal year

20-21 to offer technical assistance to sponsors that are operating under NSLP, SSO, and SFSP in order to avoid fraud in the Food Nutrition Programs and ensure their integrity.

For CACFP, PRSA-DE's proposed alternative oversight plan includes a waiver of the requirements for number and frequency of reviews. Any review not completed in program year (PY) 21 will be prioritized in PY 22. Similarly, any review not completed in PY 20 will be prioritized in PY 21 if the institutions are offering services under CACFP. For SFSP, PRSA-DE requests a waiver of the requirements for number and frequency of reviews for the state agency and sponsors. PRSA-DE and SFSP sponsors have been planning and performing site visits remotely since the beginning of the COVID 19 emergency in April 2020. State agency monitors have performed 26 Sponsors Administrative reviews to new sponsors and to those in the 3 years cycle and 74 site visits to 35 sponsors.

To ensure program integrity in all programs, PRSA-DE's Monitoring Section has developed Desk Review procedures and guides for the different programs in order to ensure the integrity and proper functioning of the nutrition programs. PRSA-DE will continue to ensure program integrity and prevent fraud through the application approval process, technical assistance visits, and training PRSA-DE staff and sponsors in the use of technology like Microsoft Teams and OneDrive. PRSA-DE will continue providing guidance and technical assistance to CACFP, SFSP, and NSLP sponsors to meet the needs of their communities and encourage participation during the COVID 19 emergency.

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(s) 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 PRSA-DE's waiver request effective:

- September 30, 2021, for SFSP reviews;
- September 30, 2021, for CACFP reviews; and,
- June 30, 2024, for the NSLP administrative review cycle extension.

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 requirements will facilitate PRSA-DE's ability to successfully carry out the purpose of the Programs.

PRSA-DE's oversight plan, as discussed above, provides assurance that PRSA-DE 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, PRSA-DE 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, PRSA-DE provide the FNS Mid-Atlantic Regional Office (MARO) a quarterly written report. The report must provide information on how PRSA-DE 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(s); and
- A summary of any technical assistance measures that were provided.

Should PRSA-DE determine this waiver is no longer necessary prior to the dates listed above, please notify the FNS MARO.

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 MARO.

Sincerely,

A handwritten signature in blue ink, reading "Saracino", is positioned above a horizontal line.

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