



Food and
Nutrition
Service

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December 17, 2020

Stephen H. Carey
Nutrition Programs Coordinator
Office of Statewide Efficiencies
Rhode Island Department of Education
255 Westminster Street
Providence, RI 02903

Dear Mr. Carey:

This letter is in response to the November 5, 2020, waiver request from the Rhode Island Department of Education (RIDE). RIDE requested to waive the following statutory and regulatory requirements:

National School Lunch Program (NSLP)

- 7 CFR 210.10(h)(2) Requirement to review trans fat;
- 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)(D) Review every sponsor at least once every three years;
- 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 225.7(d)(2)(iii)(3) Conduct follow up reviews of sponsors and sites as necessary;
- 7 CFR 225.7(d)(2)(iii)(6) Inspect FSMC facilities;
- 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) and 7 CFR 226.6(m)(6)(i)-(iii) Frequency and number of required institution reviews;
- 42 USC 1766(d)(2)(B)(ii) and 7 CFR 226.16(d)(4)(iii)(A) At least two of the three reviews must be unannounced;

- 7 CFR 226.16(d)(4)(iii)(B) At least one unannounced review must include observation of a meal service; and
- 7 CFR 226.16(d)(4)(iii)(D) Not more than six months may elapse between 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, RIDE proposed a one year pause of formal monitoring for all Child Nutrition Programs, thus extending the review cycle for each program by one year, and an alternative oversight plan that includes extensive technical assistance for all sponsoring organizations and school food authorities (SFAs). To ensure program integrity and prevent fraud, RIDE will review supporting documentation for meal patterns and claims from all SFAs and sponsors who were scheduled for a review during the current review year. Each of these SFAs and sponsors will receive targeted technical assistance based on documentation provided. All claims will be monitored for fraudulent activities, subjected to extensive edit checks, and reviewed by RIDE's fiscal technician for suspicious claims. Additionally, RIDE requested monitoring waivers on behalf of sponsoring organizations and SFAs in order to meet their current needs on the ground.

For NSLP, all SFAs who would have received an administrative review (AR) in school year (SY) 2020-2021 chose to participate in SFSP instead. Therefore, RIDE will provide targeted support and technical assistance for their SFSP operations this SY. In addition, the RIDE NSLP team will engage in enhanced training and technical assistance activities for all SFAs operating under the SFSP in SY20-21, as detailed below. For any SFA operating NSLP this SY, RIDE will provide a training for any new staff operating the program that covers all program requirements. RIDE has also requested to waive the requirement to review trans fat as part of SY 20-21 ARs, however, a waiver of this requirement is not needed given that RIDE has indicated a pause in formal monitoring for SY 20-21.

To ensure program integrity in SFSP, RIDE will offer increased, targeted technical assistance for all SFSP sponsors currently operating the Program. The SFSP and NSLP teams will individually reach out to each sponsor to discuss current operations, review program compliance, and address areas of concern. Based on these conversations, sponsors will be asked to provide a sample of supporting documentation for any areas in which they expressed the need for additional support (i.e. sample menus, production records, meal count sheets, etc.) and a technical assistance appointment will occur with a member of the SFSP team. RIDE's SFSP staff will review the provided documentation prior to the technical assistance appointment and will provide specific

recommendations, resources and other technical assistance during the live technical assistance session. If RIDE finds areas of common concern or confusion among sponsors, additional training materials and/or recorded trainings will be created and shared with all SFSP sponsors.

To ensure program integrity in CACFP, sponsors who would have received a review in the current fiscal year (FY), will receive increased, targeted technical assistance, including three required webinars. Any other sponsor who would like to attend those webinars will be allowed to do so. In addition to those sessions, RIDE will ask all sponsors that were due for review in FY21 to submit one week of served menus with supporting documentation (i.e. recipes, product formulation statements, etc.) for review, as meal pattern compliance has been the greatest source of error in past reviews. RIDE will also request those sponsors submit a sampling of attendance records, meal counts, and meal benefit applications that support the monthly claim for reimbursement.

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)), the Food and Nutrition Service (FNS) approves the following RIDE waiver request through:

- June 30, 2021 for NSLP monitoring requirements;
- September 30, 2021 for CACFP and SFSP monitoring requirements;
- June 30, 2022 for the NSLP administrative review cycle extension; and
- September 30, 2024 for the SFSP and CACP review cycle extension.

Please note that this waiver only extends the NSLP, SFSP, and CACFP review cycles and does not waive the requirement itself for a review cycle in each Program. 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 RIDE's ability to successfully carry out the purpose of the Programs. The RIDE 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, RIDE must take Program integrity measures to identify any misuse of Federal funds and identify fraudulent activities.

The waiver authority at section 12(1)(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 1, 2021, FNS is requiring that for the duration of this waiver, the RIDE provide the Northeast Regional Office (NERO) a quarterly written report. The report must provide information on how the State 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 RIDE determine this waiver is no longer necessary prior to the expiration of the dates listed above, please notify the NERO.

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 NERO.

Sincerely,



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