



Food and  
Nutrition  
Service

January 06, 2021

Braddock  
Metro Center

Dr. Sandra Curwood, RDN  
Director, School Nutrition Programs  
Virginia Department of Education  
101 North 14<sup>th</sup> Street  
Richmond, VA 23218

1320  
Braddock  
Place  
Alexandria  
VA 22314

Dear Dr. Curwood:

This letter is in response to the December 17, 2020 waiver request from the Virginia Department of Education (VADOE). VA DOE requested to waive the following statutory and regulatory requirement:

School Meal Programs:

7 CFR 210.18(e)(3)(ii) that requirement that the State agency review the Seamless Summer Option (SSO) at a minimum of one site if the school food authority (SFA) selected for review operates the SSO. Under this regulation, the review must occur the summer before, or the summer after the school year in which the administrative review is scheduled.

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, VADOE proposed an alternative oversight plan that includes reviewing SSO at a minimum of one site if the school food authority selected for review operates the SSO, but during a different timeframe from what is specified in Program regulations. Under this waiver and oversight plan VADOE will review SSO for SFAs that are due to receive an administrative review in school year (SY) 2021-2022 during SY 2020-2021 rather than waiting to conduct all SSO review during the summer before or after the administrative review. VADOE expects to meet all other school meal program oversight requirements found in 7 CFR 210.18. VADOE will continue to conduct all SFSP and CACFP reviews as required per regulations. VADOE has provided SFAs and sponsors with training and monitoring guidance and tools for sponsor-level monitoring in order to meet their monitoring requirements.

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 VADOE's waiver requests through June 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 requirement will facilitate VA DOE's ability to successfully carry out the purpose of the Programs.

VADOE'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, VADOE 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, the VADOE provide the FNS Mid Atlantic Regional Office (MARO) a quarterly written report. The report must provide information on how the VADOE 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 VADOE determine this waiver is no longer necessary prior to the expiration of the waiver, 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 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