



Food and
Nutrition
Service

March 9, 2021

Braddock
Metro Center

Ms. Belinda Sanderson, Director
Virgin Islands Department of Education
Special Nutrition Programs

1320
Braddock
Place
Alexandria
VA 22314

St Thomas:
1834 Kongens Gade
St. Thomas, VI 00802-6746
St Croix:
2133 Hospital Street
Christiansted St. Croix, VI 00820-4665

Dear Ms. Sanderson:

This letter is in response to the February 9, 2021 waiver request from the Virgin Island Department of Education (VIDE). VIDE requested 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;
- 7 CFR 210.8(a)(1) & 220.11(d)(1) SFA reviews by February 1; and
- 7 CFR 210.9 (c)(7) Afterschool care reviews.

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)(C) Annually review sponsors who had operational issues the year prior;
- 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 is greater;
- 7 CFR 225.7(d)(3) Conduct follow up reviews of sponsors and sites as necessary;
- 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)(B)(i)(I) & 7 CFR 226.16(d)(4)(iii) Frequency and type of required facility reviews. Review each facility three times each year, unless averaging;
- 42 USC 1766(d)(2)(B)(ii) & 7 CFR 226.16(d)(4)(iii)(A) At least two of the three reviews must be unannounced; and

- 7 CFR 226.16(d)(4)(iii)(B) At least one unannounced review must include observation of a meal service.

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, VIDE proposed to pause formal monitoring in NSLP and not conduct administrative reviews (AR) in school year (SY) 20-21 and extend the current AR cycle from four years to six years. Additionally, VIDE is planning to pause procurement reviews in the NSLP for SY 20-21 and extend their procurement review cycle from four years to seven years. VIDE is requesting to pause formal monitoring of sponsors in the SFSP for fiscal year (FY) 2021. To ensure program integrity, VIDE plans to continue to conduct offsite monitoring for the CACFP per regulations, except for those identified in the request above. VIDE plans to monitor meal counts in the SFSP and provide training and technical assistance (TA) to all program operators on the topics of counting and claiming, claim preparation, menu planning, Civil Rights, and food safety.

To ensure program integrity in the NSLP, VIDE will resume ARs in SY 21-22. Currently, school food authorities (SFAs) are operating the SFSP in lieu of the NSLP. VIDE plans to make their program specialists available for participants to contact via telephone and email if any assistance is needed. The State agency also makes calls to the participants to inquire about the status of operations and determine whether they need any immediate assistance.

To ensure program integrity in the SFSP, VIDE plans to observe meals and production records virtually. VIDE has detailed their counting and claiming review process which includes reviewing accuracy of claims and a process for correcting inaccurate claims. VIDE also plans to review menus and food safety in addition to counting and claiming offsite. VIDE plans to continue to monitor sponsors at least once every three years and has not asked for relief from that regulation.

To ensure program integrity in the CACFP, VIDE plans to conduct monitoring offsite, and will request all documents from providers including financial management documents. VIDE plans to conduct monitoring per regulations for all other CACFP regulations and has only asked to waive regulations for sponsoring organizations. VIDE plans to provide trainings and technical assistance to ensure program integrity and identify misuse of federal funds or any fraudulent activity. According to VIDE all sponsors participating in the CACFP are required to submit the following supporting

documents along with their monthly claims for reimbursement: prep menu, weekly distribution menu, attendance sheets, distribution sign in sheets, and meal count sheets.

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 VIDE's waiver request effective through:

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

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 VIDE's ability to successfully carry out the purpose of the Programs.

VIDE's oversight plan, as discussed above, provides assurance that VIDE 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, VIDE 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, VIDE provide the FNS Northeast Regional Office (NERO) a quarterly written report. The report must provide information on how VIDE 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 VIDE determine this waiver is no longer necessary prior to the expiration of the dates listed above, please notify the FNS 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 FNS NERO.

Sincerely,



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