



Food and
Nutrition
Service

Braddock
Metro Center

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Alexandria
VA 22314

March 31, 2021

Ms. Rosie Krueger
State Director, Child Nutrition Programs
Vermont Agency of Education
1 National Life Drive, Davis 5
Montpelier, VT 05620-2501

Dear Ms. Krueger:

This letter is in response to the March 11, 2021, waiver request from the Vermont Agency of Education (VTAOE). VTAOE requested to waive the following statutory and regulatory requirements:

National School Lunch Program (NSLP)

- 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;
- 7 CFR 210.9 (c)(7) Afterschool care reviews;

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)(C) Annually review sponsors who had operational issues the year prior;
- 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 is greater;
- 7 CFR 225.7(d)(3) Conduct follow up reviews of sponsors and sites as necessary;
- 7 CFR 225.7(d)(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) Frequency and number of required institution reviews. Annually review at least 33.3% of all institutions according to the schedule:
 - 7 CFR 226.6(m)(6)(i) Review independent centers and sponsoring organizations of 1 to 100 facilities at least once every three years and include reviews of 10% of their facilities;

- 7 CFR 226.6(m)(6)(iii) Review new institutions that are sponsoring organizations of five or more facilities within the first 90 days of Program operations;
- 7 CFR 226.6(m)(3)(vii) Review content: If an independent center, observation of a meal service;
- 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.

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 (SSO) 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, VTAOE proposed an alternative oversight plan that includes pausing formal monitoring for school year (SY) 20-21 and extending the administrative review (AR) cycle by one year. VTAOE had previously received approval from FNS to extend their three-year NSLP AR cycle by one year until SY 22-23. Almost all school food authorities (SFAs) in Vermont are currently operating the SFSP, and none are operating SSO. Due to limited staff availability, VTAOE requested to also extend their three-year FSMC review cycle to a four-year cycle ending in SY 22-23 and to extend their six-year procurement review cycle to a seven-year cycle ending in SY 25-26. VTAOE requested to postpone fiscal year (FY) 20-21 SFSP reviews for existing sponsors until after SY 20-21. VTAOE also requested to waive the requirement to annually review sponsors whose reimbursements count as half the aggregate from the previous year. On behalf of SFSP sponsors operating during SY 20-21, VTAOE requested a waiver of the first four-week site visit requirement to extend the deadline to complete this review. For CACFP, VTAOE requested a waiver of the annual frequency and number of institution review requirements due to pandemic related closures. Due to the nature of off-site reviews, VTAOE also requested a waiver of the observation of a meal service requirement. On behalf of CACFP sponsoring organizations, VTAOE requested to waive the unannounced review and observation of a meal service requirements. VTAOE also requested to waive review requirements on behalf of SFAs operating the at-risk afterschool meals program in order to decrease burden.

To ensure program integrity in the NSLP, VTAOE is conducting two technical assistance (TA) calls with every SFA while ARs are paused during SY 20-21. These two-hour calls cover food safety, COVID health and safety measures, meal counting and claiming, and the benefit issuance process. The calls also serve as an opportunity to inform VTAOE's plans to issue additional guidance, best practices, and technical assistance documents. SFAs continuing to operate the NSLP were required to complete

off-site reviews by February 1, 2021. VTAOE is amending the traditional on-site monitoring form provided to SFAs to include additional food safety and sanitation questions and instructions for completing the form off-site.

To ensure program integrity in the SFSP, VTAOE will hold TA calls for existing sponsors while reviews are postponed until after SY 20-21. These reviews will be conducted during summer 2021, and new sponsors will be reviewed within the first year of operating. SFAs and sponsors operating SFSP during SY 20-21 were required to conduct the first four-week monitoring review by February 1, 2021 to align with the monitoring deadline for the School Meals Programs. TA calls will cover each sponsor's unique meal service challenges due to COVID-19 and will focus on meal counting and claiming, food safety and sanitation, and civil rights. VTAOE will provide comprehensive sponsor training through online webinars beginning in March 2021 and will provide additional TA opportunities for all sponsors. For summer 2021 operations, VTAOE will conduct off-site reviews of SFSP sponsors per regulations, but will modify the review selection criteria by waiving the requirement to annually review sponsors whose reimbursements count as half the aggregate from the previous year. Sponsors will complete reviews off-site per regulations, however sites that operated successfully in the previous year and sponsors that successfully participate in CACFP or the NSLP will not be required to conduct first week site visits per *COVID-19: Child Nutrition Response #65*.

To ensure program integrity in the CACFP, VTAOE will review all institutions who were scheduled to receive a review in FY 19-20 but were postponed due to COVID-19 during FY 20-21. VTAOE will conduct these reviews off-site through desk audits. VTAOE will remain on schedule for CACFP reviews and will conduct a total of 52 reviews during FY 20-21, which is 46 percent of approved sponsors. To reduce administrative burden, VTAOE will allow independent centers to submit alternative forms of documentation in place of the observation of a meal service. SFAs with five or more facilities who have previously participated in other programs will receive a review within their first year of operation, in place of the required review within 90 days of operation of the at-risk afterschool meals program. New SFAs operating the at-risk afterschool meals program will be provided guidance and TA throughout FY 20-21. For CACFP sponsoring organizations, VTAOE will allow unannounced reviews to be announced and will allow the collection of alternative forms of documentation in place of the observation of a meal service. VTAOE will continue to provide guidance, TA, and additional resources. New sponsor training was held online during fall 2020, and VTAOE will be implementing an online learning management system for training opportunities in spring 2021.

In order to identify any misuse of Federal funds or potentially fraudulent activity in all programs, VTAOE's automated claiming system performs extensive edit checks on each claim before the claim can be submitted, approved, and processed for payment.

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 VTAOE's waiver request effective through:

- June 30, 2021, for NSLP monitoring requirements;
- September 30, 2021, for CACFP and SFSP monitoring requirements;
- June 30, 2023, for the NSLP administrative review cycle and FSMC review cycle extension.

Please note that this only extends the review cycles, and does not waive the requirement itself for a 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 VTAOE's ability to successfully carry out the purpose of the Programs.

VTAOE's oversight plan, as discussed above, provides assurance that VTAOE 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, VTAOE 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 July 1, 2021, FNS is requiring that for the duration of this waiver, VTAOE provide the FNS Northeast Regional Office (NERO) a quarterly written report. The report must provide information on how VTAOE 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 VTAOE 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,

A handwritten signature in blue ink, appearing to read "Saracino", is written over a horizontal line.

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