



Food and  
Nutrition  
Service

Braddock  
Metro  
Center

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Alexandria  
VA 22314

August 5, 2020

Ms. Belinda Sanderson  
State Director  
Virgin Islands Department of Education  
Special Nutrition Programs  
1834 Kongens Gade  
Charlotte Amalie  
St Thomas, VI 00802

Dear Ms. Sanderson,

This letter is in response to the June 26, 2020, waiver request from the Virgin Islands Department of Education (VIDE). Due to the novel coronavirus (COVID-19) pandemic, the State agency was unable to timely notify schools of their Community Eligibility Provision (CEP) status and post this notification on their public website. VIDE is requesting a waiver under Section 12(l) of the Richard B. Russell National School Lunch Act (NSLA) [42 U.S.C. 1760], which would allow it to:

- Provide notification to LEAs and schools of CEP eligibility or near eligibility by August 15, 2020; and
- Post lists of LEAs and schools that are eligible or near eligible for CEP readily accessible on a State agency website by August 15, 2020.

Specifically, VIDE seeks to waive statutory requirements at Section 11(a)(1)(F)(x)(II and IV) of the NSLA [42 U.S.C. 1759a] and corresponding regulations at 7 CFR 245.9(f)(6) and (7) that detail annual State agency notification requirements for CEP elections. Although the Food and Nutrition Service (FNS) provided extensions of these requirements through the *Nationwide Waiver of Community Eligibility Provision Deadlines in the National School Lunch and School Breakfast Programs* (<https://www.fns.usda.gov/cn/covid-19-cep-deadlines-waiver>), due to COVID-19, VIDE experienced additional delays in the establishment of their direct certification system, which is necessary for obtaining CEP data for meeting the extended CEP notification requirements. This delay was a direct result of COVID-19 travel restrictions, which prevented FNS from providing the requisite technical assistance and guidance in the establishment of the system and ensuring the accuracy and integrity of VIDE's initial execution of CEP requirements.

Approval of the waiver would allow VIDE to participate in its first year of CEP operations by providing administrative flexibilities enabling VIDE to compile the information to notify LEAs of their CEP eligibility, post the notification to the VIDE public website, and allow time for LEAs to choose whether to elect CEP by the extended nationwide deadline of August 31, 2020.

To grant a Section 12(l) waiver, the NSLA requires that the waiver must facilitate the purpose of the program, the public must receive notice and information regarding the proposed waiver, and the waiver will not increase the overall cost of the program to the Federal Government. FNS finds that VIDE's waiver request satisfies these statutory requirements.

Based on the exceptional circumstances relating to COVID-19 and pursuant to section 12(l) of the NSLA, FNS is providing approval for VIDE to waive the following statutory and regulatory requirements pertaining to CEP State and public notification requirements:

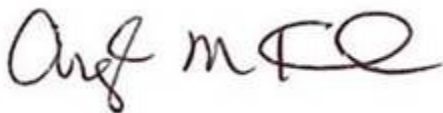
- *Identification of potential community eligibility schools* (NSLA Section 11(a)(1)(F)(x)(II) and 7 CFR 245.9(f)(6)): This requires that State agencies notify LEAs about their CEP eligibility status no later than April 15 (the Nationwide Waiver extended the deadline to June 15 for SY 2020); and
- *Public notification requirements* (NSLA Section 11(a)(1)(F)(x)(IV) and 7 CFR 245.9(f)(7)): This requires State agencies to publicly post and maintain lists of eligible schools by May 1 of each school year (the Nationwide Waiver extended the deadline to June 30 for SY 2020).

The waiver authority at section 12(l) of the NSLA requires that FNS review the performance of any State agency or eligible service provider that is granted a waiver. Therefore, VIDE must provide the Northeast Regional Office a written report by December 31, 2021. The report must provide information quantifying the impact of the waiver for the respective program year, as described below, in order to help inform national policy. The report must include:

- A description of how the waiver impacted meal service operations, children's access to nutritious meals, and participation in the NSLP;
- A description of how the waiver reduced the quantity of paperwork necessary to administer the program; and
- A summary of benefits and challenges associated with the waiver.

FNS appreciates VIDE's commitment to work with SFAs to meet the nutritional needs of children during a challenging time. As the situation for schools and school meal operations evolves, FNS stands ready to assist VIDE in resolving further challenges it faces in providing school meals. If you have questions, please contact the FNS Northeast Regional Office.

Sincerely,



Angela Kline  
Director  
Policy and Program Development Division