



Food and  
Nutrition  
Service

February 2, 2021

Braddock  
Metro Center

Ms. Angelice Lowe  
Alabama State Department of Education  
50 N. Ripley St.  
Montgomery, AL 36104

1320  
Braddock  
Place  
Alexandria  
VA 22314

Dear Ms. Lowe:

This letter is in response to the January 22, 2021, waiver request from the Alabama State Department of Education (ALSDE). ALSDE 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;
- 7 CFR 210.18(e)(3)(ii) - Site selection for other Federal program reviews;
- 7 CFR 210.8(a)(1) - School food authority (SFA) reviews of lunch by February 1; and
- 7 CFR 220.11(d)(1) - SFA reviews of breakfast by February 1.

Child and Adult Care Food Program (CACFP)

- 7 CFR 226.6(m)(4) - Review of sponsored facilities; and
- 42 USC 1766(d)(2)(C)(i) and 7 CFR 226.6(m)(6)(i)-(iii) - Frequency and number of required institution 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, ALSDE proposed an alternative oversight plan for NSLP and CACFP that includes extensive technical assistance for all program sponsors. For NSLP, the administrative review (AR) cycle will be extended by one year and the FSMC review cycle will be extended by two years to a six-year cycle for each review. ALSDE's AR cycle was scheduled to end this school year (SY) 20-21; however, with many SFAs scheduled for an AR in SY 20-21 operating other programs, ALSDE requires an extra year in its cycle to ensure all SFAs are reviewed in the current cycle.

Any SFA who is scheduled to receive an AR in SY 21-22, and chose to operate the Seamless Summer Option (SSO) during SY 20-21, will receive an off-site SSO review in SY 20-21 and full AR in SY 21-22. Additionally, ALSDE requests a waiver of local monitoring requirements on behalf of SFAs operating the NSLP in order to meet their current needs on the ground. For CACFP, the review cycle will be extended by one year for all sponsors. ALSDE did not request a waiver of monitoring requirements on behalf of their CACFP sponsoring organizations; therefore, all sponsoring organizations will conduct reviews of their operations as required per regulations. ALSDE did not request a waiver of any Summer Food Service Program (SFSP) monitoring requirements; therefore, all monitoring of SFSP will be completed as required per regulations.

To ensure program integrity in the NSLP, ALSDE will continue to provide extensive technical assistance to all SFAs through targeted sessions and small classes via webinars or conference calls. Additionally, ALSDE will continue to conduct off-site monitoring. Two SFAs scheduled for an AR in SY 20-21 have elected to operate NSLP. Those SFAs will receive an off-site AR this spring if the SFAs continue in the program. If the SFAs move to another program before the AR, they will be reviewed in SY 21-22. Fourteen SFAs scheduled for an AR in SY 20-21 chose to operate SSO instead. These SFAs will receive an off-site SSO review in SY 20-21 and a full AR in SY 21-22. Any SFA operating NSLP or SSO will have until June 30, 2021, instead of February 1, 2021, to complete local level monitoring requirements.

To ensure program integrity in the CACFP, ALSDE will continue to monitor CACFP operations on-site, when practicable, and off-site when an on-site review is not possible. ALSDE plans to conduct all 220 reviews and 42 follow-up reviews scheduled for fiscal year (FY) 21 to comply with regulations dictating review timing and frequency. However, if a sponsor closes or does not have the technology to conduct a comprehensive off-site review when an on-site review is not possible, the sponsor will be reviewed the following FY. ALSDE did not request a waiver of monitoring requirements on behalf of their CACFP sponsoring organizations; therefore, all sponsoring organizations will conduct reviews of their operations as required per regulations.

To ensure program integrity in the SFSP, ALSDE and sponsoring organizations will conduct SFSP monitoring as required per regulations; ALSDE will continue to provide technical assistance and training.

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 ALSDE's waiver request effective through:

- June 30, 2021 for NSLP monitoring requirements;
- September 30, 2021 for CACFP monitoring requirements;
- June 30, 2022 for NSLP Administrative Review and Food Service Management Company cycle extensions; and
- September 30, 2022 for the CACFP review cycle extension.

Please note that this waiver only extends 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 ALSDE's ability to successfully carry out the purpose of the Programs.

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

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 SERO.

Sincerely,



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