



Food and
Nutrition
Service

January 26, 2021

Braddock
Metro Center

Brehan Riley Director,
Office of School Nutrition
Colorado Department of Education
1525 Sherman Street, Suite 309
Denver, CO 80203

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Alexandria
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Dear Ms. Riley:

This letter is in response to the January 5, 2021 updated waiver request from the Colorado Department of Education, (CDE School Nutrition). CDE School Nutrition 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 210.19(a)(5) Food Service Management Company (FSMC) review cycle requirements; and
- 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)(E) Conduct reviews of at least 10 percent of each sponsor's sites or one site, if that's greater;
- 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.

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, CDE School Nutrition requested to pause monitoring in the NSLP for school year (SY) 20-21 and add an additional year onto their administrative review (AR) and Food Service Management Company (FSMC) review cycles. The majority of SFAs in Colorado are operating SFSP in lieu of NSLP for SY 20-21. CDE School

Nutrition requested to waive select review criteria in the SFSP. To ensure program integrity, CDE will continue to conduct reviews for SFSP sponsors based on alternative criteria. Additionally, CDE School Nutrition plans to provide technical assistance (TA) and training to all School Food Authorities (SFAs) who are operating the SFSP currently.

To ensure program integrity in the NSLP, CDE School Nutrition will resume normal monitoring operations in SY 21-22. The majority of SFAs are operating the SFSP and CDE School Nutrition plans to continue to conduct SFSP reviews per regulations with the exception of the regulations included in this waiver request. CDE School Nutrition has been conducting one on one TA and training for all SFAs operating the SFSP including operational guidance for waiver implementation, meal patterns, counting and claiming, offer vs. serve, and food safety. Additionally, they have been conducting monthly sharing calls to answer specific operational questions and share information among SFAs.

To ensure program integrity in the SFSP, CDE School Nutrition plans to continue to annually review a number of sponsors whose program reimbursements, in the aggregate, accounted for at least one-half of the total program meal reimbursements for sponsors operating traditional SFSP in the prior year. CDE School Nutrition plans to review 10 percent of each sponsor's sites, or one site, if that's greater, for the current approved application on file in order to review more current sites in operation. CDE School Nutrition will require sponsors to complete required monitoring once during program operation for SY 20-21. Additionally, sponsors will complete one monitoring form for sites on a mobile route operated by the same site personnel. CDE School Nutrition has continued to provide regular TA and training for all sites operating SFSP.

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 CDE School Nutrition's waiver request effective through:

- June 30, 2021, for NSLP monitoring requirements;
- September 30, 2021, for SFSP monitoring requirements; and
- June 30, 2025, for the NSLP and FSMC administrative review cycle extension.

Please note that this only extends the NSLP and FSMC administrative review cycles and does not waive the requirement for an administrative 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 CDE School Nutrition's ability to successfully carry out the purpose of the Programs.

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

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 MPRO.

Sincerely,

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

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