



Food and
Nutrition
Service

January 12, 2021

Braddock
Metro Center

Cheri White
New Hampshire Department of Education
101 Pleasant Street
Concord, NH 03301

1320
Braddock
Place
Alexandria
VA 22314

Dear Ms. White:

This letter is in response to the January 4, 2021 revised waiver request from the New Hampshire Department of Education (NH DOE). NH DOE 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 210.8(a)(1) & 220.11(d)(1) School Food Authority (SFA) reviews by February 1;
- 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)(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's greater;
- 7 CFR 225.7(d)(2)(iii)(3) Conduct follow up reviews of sponsors and sites as necessary;
- 42 USC 1761(n)(4) and 7 CFR 225.7(d)(2)(iii)(6) Inspect FSMC facilities;
- 7 CFR 225.15(d)(2) Visit sites at least once during the first week of operation;
- 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)

- 7 CFR 226.6(m)(2) Review priorities;
- 7 CFR 226.6(m)(4) Review of sponsored facilities;

- 42 USC 1766(d)(2)(C)(i) and 7 CFR 226.6(m)(6)(i)-(iii) Frequency and number of required institution reviews;
- 42 USC 1766(d)(1)(B)(i)(I) and 7 CFR 226.16(d)(1) Pre-approval visits;
- 7 CFR 226.16(d)(4)(ii) Reconciliation of meal counts;
- 42 USC 1766(d)(2)(B)(i)(I) and 7 CFR 226.16(d)(4)(iii)(A)-(D) Frequency and type of required facility reviews;
- 7 CFR 226.16(d)(4)(iv) Averaging of required reviews;
- 7 CFR 226.16(d)(4)(v) Follow-up reviews; and,
- 7 CFR 226.16(d)(4)(vi) Notification of unannounced 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 (SFSP) and the National School Lunch Program (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, NH DOE proposed a pause in formal monitoring for all Child Nutrition Programs during fiscal year (FY) 2021 and school year (SY) 20-21, and an alternative oversight plan that includes conducting technical assistance (TA) meetings for all sponsors and SFAs. NH DOE proposed extending the current 5-year NSLP administrative review (AR), procurement review, and FSMC review cycles and 3-year CACFP and SFSP review cycles by one year. To ensure continued program integrity and identify any fraudulent activity, NH DOE will conduct TA meetings and provide guidance for all program operators. NH DOE has developed a guide for TA and documentation, which includes standardized questions, a review of all claims, and training based on corrections needed. Any reviews not completed that were not completed last SY/FY or this SY/FY due to COVID-19 will be completed next SY/FY. Based on the TA meetings, NH DOE will gather training topics for a virtual Child Nutrition Technical Assistance Training Conference in May or June of 2021. NH DOE has also requested a waiver of monitoring requirements on behalf of SFAs and sponsoring organizations for all programs during SY 20-21 and FY 21.

To ensure program integrity in NSLP, NH DOE will conduct targeted TA meetings this SY for SFAs serving meals under NSLP and SSO. NH DOE will ask a standardized set of questions during Zoom meetings and phone calls, and document and track all responses. NH DOE will review the organization's application, approved waivers, and claims for reimbursement before scheduling the two-hour TA meeting. The meetings will gather information on the meals served, waiver flexibilities, meal pattern, meal counting, food safety, household communication, and additional information. If noncompliance is found during the TA meeting or after review of submitted documents, NH DOE will require correction of the noncompliance within 30 days. NH DOE has developed a tool to track corrections needed, and will keep a record of the questions

and answers from the TA meetings. In addition, NH DOE will continue to monitor monthly claims submitted for potential fraudulent activity, meal counts that exceed average daily attendance numbers, and/or contain impossible counts (e.g. meals claimed as free, reduced and paid when the site is operating SFSP) and require corrections prior paying a claim.

To ensure program integrity in SFSP and CACFP, NH DOE will follow the same procedure as for NSLP, and conduct targeted TA meetings for sponsoring organizations. As detailed above, NH DOE will conduct the meetings via Zoom or phone call, ask a standardized set of questions, require correction of any noncompliance within 30 days, and provide TA and training based on corrections needed. NH DOE will continue to monitor monthly claims submitted for errors and/or potential fraudulent activity and require corrections prior to paying a claim.

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 do not increase the overall costs of the Program 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 the following NH DOE waiver request through:

- June 30, 2021 for NSLP monitoring requirements;
- September 30, 2021 for CACFP and SFSP monitoring requirements;
- September 30, 2022 for the CACFP review cycle extension;
- December 31, 2023 for the SFSP review cycle extension; and
- June 30, 2025 for the NSLP review cycle extension.

Please note that this waiver 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 NH DOE's ability to successfully carry out the purpose of the Programs. NH DOE's oversight plan, as discussed above, provides assurance that the State 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, NH DOE 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, NH DOE provide the FNS Northeast Regional Office (NERO) a quarterly written report. The report must provide information on how the State 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; and
- A summary of any technical assistance measures that were provided.

Should NH DOE determine this waiver is no longer necessary prior to the expiration of the dates listed above, please notify the 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 NERO.

Sincerely,

A handwritten signature in black ink that reads "Sarah E. Smith-Holmes". The signature is written in a cursive style with a large initial 'S'.

Sarah Smith-Holmes
Director
Program Monitoring and Operational Support Division
Child Nutrition Programs