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November 13, 2020

SUBJECT: NMPED State Oversight Waiver and Plan and Flexibility for the Administrative Review Cycle Requirement

Waiver Requests: Administrative Review Cycle and NMPED Oversight Plan for COVID-19

This waiver and oversight plan due to COVID-19. It is a request to implement the flexibility now being allowed for the Administrative Review Cycle Requirement (7 CFR 210.18). The request is to move from a three-year Administrative Review cycle to a five-year Administrative Review Cycle.

1. State agency submitting waiver request and responsible State agency staff contact information:

New Mexico Public Education Department
Student Success & Wellness Bureau
120 S. Federal Place, Suite 207
Santa Fe, NM 87507

Michael A. Chavez, Director
120 S. Federal Place, Suite 207
Santa Fe, NM 87507
Work Cell: (505)699-4562

2. Region: Southwest

3. Eligible service providers participating in waiver and affirmation that they are in good standing:

New Mexico Public Education Department, Student Success and Wellness Bureau is in good standing with the National Office of the Food Nutrition Services, Southwest Region. All NMPED SFA's currently scheduled for a State Agency Monitoring Administrative Review for SY20-21 for the following programs (NSLP/SBP, SSO, ASSP, and FFVP).

4. Description of the challenge the State agency is seeking to solve, the goal of the waiver to improve services under the Program, and the expected outcomes if the waiver is granted.

[Section 12(1) (2) (A) (iii) and 12(1) (2) (A) (iv) of the NSLA]:

Overview: The State Agency (SA) in New Mexico has approximately 216 total SFAs. Under the current regulation (7 CFR 210.18) one-third of the Administrative Reviews must be completed each year. With a recent vacant position and 4 Health Educators employed who monitors and conducts the Administrative Reviews in New Mexico, the reviewers must complete anywhere from fourteen (14) reviews to fifteen (15) reviews in a particular school year depending on the specific territories of the state.

Our Procurement review cycle for New Mexico is set as a five-year cycle. The Procurement Review was also implemented as part of the Healthy, Hunger-Free Kids Act of 2010. Many state agencies coupled the two evaluations however New Mexico did not. This has caused an issue with doing two different cycle years for procurement and administrative reviews. Due to the separate cycles, our staff would need to complete separated reviews with both the three and five-year cycles. This adds even more stress for the SFA's and our bureau as we plan to complete these reviews using two different cycle times. Having both reviews set as five years would allow our Bureau to plan better and ensure a straightforward process for not only us but for the SFA's.

Challenge: A thorough completion of the Administrative Review is not only very trying to achieve in a timely manner, but also the added sections and questions that have come about over the honing of the tool itself, have lengthened the process. With the recent pandemic, COVID-19 has caused a major delay in completing scheduled and required administrative review which were scheduled to be conducted starting March 2020. With these cancelations starting March 2020, New Mexico Public Education Department is already behind and will continue to be behind schedule in completing the required three-year cycle. With the COVID-19 Pandemic, there are vast differences of child nutrition programs being operated within SFA's. Each SFA has their own reopening plan and the type of learning offered varies from virtual, hybrid, and some in class learning. On-site monitoring is limited due to SFA's strict policies on limiting visitors into the schools. With the flexibilities of the USDA Nationwide waivers each SFA has elected to utilize the waivers in different ways.

Goal:

Due to the numerous USDA Nationwide waivers and flexibilities along with social distancing recommendations, the monitoring plan will need to be modified during the COVID-19 pandemic. The goal is to continue to ensure program integrity by providing sufficient oversight through intensive technical assistance during COVID-19.

- NMPED will only conduct approximately 10-15 virtual Administrative reviews for only the RCCI's and the SFA's who have opted to operate as NSLP. These reviews will be conducted by CNR our state hired contractor.
- Health Educators will provide oversight and complete intensive technical assistance to those operating as SSO following the SSO Administrative Review process and forms.
- To assist with maintaining program integrity, procurement reviews will also continue to be completed during the 20-21 SY. A total of approximately 35 procurement reviews will be completed staying on the FSMC 3 year review cycle.

Expected Outcomes:

If allowed, State hired contractors will complete the 10-15 scheduled virtual Administrative reviews for only the RCCI's and the SFA's who have opted to operate as NSLP. Health Educators will provide oversight and complete intensive technical assistance to those operating as SSO and 35 procurement reviews will be completed.

**5. Specific Program requirements to be waived (include statutory and regulatory citations).
[Section 12(1) (2) (A) (i) of the NSLA]:**

7 CFR 210.18: Administrative Reviews

7 CFR 210.18(c); 210.8(a)(1) and 220.11(d)(1)

6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, State systems, and monitoring:

If approved, NMPED will alter the Administrative and Procurement Review to a virtual review and provide oversight and complete intensive technical assistance to SFAs operating SSO following the SSO Administrative Review process and forms. The impact that will be seen in that approval of the request will significantly reduce the number of ARs per year for each assigned Health Educator. This will enable SA staff to perform and concentrate on more details in completion of the process as well as achieve more consistency across reviews in the upcoming cycle years. The time reduction will free up time for Technical Assistance (TA) during the Corrective Action completion phase as well as more in-depth and thorough TA to SFAs during the years they are not to be reviewed- quality over quantity. There are no impacts on technology or State systems.

7. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(1) (2) (A) (ii) of the NSLA]:

In order to attempt to address barriers to the regulatory requirements of the Administrative Review three-year cycle, reviewers administered even more trainings as well as made more concerted efforts undertaken to perform more of the off-site portion of the Administrative Review in the reviewers' field office before actually planning the on-site visit. The staff saw the need to actually assist SFAs with the off-site portion of tool for several reasons. Staff turnovers in SFAs' food service personnel is always tremendous. Even though it may have been three years since the previous review, very often the reviews are now involving local staff that are experiencing this over-whelming event for the first time. This presents a very slow process to completion of an entire SFA administrative review.

8. Anticipated challenges State or eligible service providers may face with the waiver implementation:

Our agency does not anticipate that the establishment of this statewide waiver will pose any additional challenges at the state or sponsor level.

9. Description of how the waiver will not increase the overall cost of the Program to the Federal Government. If there are anticipated increases, confirm that the costs will be paid from non-Federal funds. [Section 12(1) (1) (A) (iii) of the NSLA]:

There will be no increase in the overall costs, as the waiver will ease the burden of timely completion of Administrative Reviews by lessening the number to be completed every year.

10. Anticipated waiver implementation date and time period:

School Year 2020-2021 implementation and to continue to align with the 5 year Procurement Review cycle.

11. Proposed monitoring and review procedures:

SFAs will be monitored via an Administrative Review process as required by 7 CFR 210.18 every five years rather than every three which will help to improve program operations and program integrity. For SY 2020-21, NM PED will review all SFAs administering SSO with intensive technical assistance following the SSO Administrative Review process and forms.

With the granted approval of this waiver, New Mexico Public Education Department Student Success and Wellness Bureau will adhere the following requirements

12. Proposed reporting requirements (include type of data and due date(s) to FNS):

Reporting dates and all data required will remain the same as stated in regulations. New Mexico Public Education Department Student Success and Wellness Bureau will continue to adhere to existing applicable monitoring and reporting requirements, as well as those outlined in the waiver approval issued by FNS. We will ensure continued operation throughout the approved waiver period. If this waiver is granted, New Mexico Public Education Department Student Success and Wellness Bureau will ensure that the memorandum is send out to all SFA's via email and posted on our website to notify SFA's. New Mexico Public Education Department Student Success and Wellness Bureau will continue to work with their appropriate FNS Regional Office for any additional guidance and support.

The following reports will be available with due dates as assigned and requested by FNS:

- a summary of the use of waivers by the State and eligible service providers;
- a description of whether the waivers resulted in improved services to recipients/participants;
- a description of the impact of the waivers on providing nutritional meals to participants;
- a description of how the waivers reduced the quantity of paperwork necessary to administer the Program; and
- any additional information requested in the waiver approval.

13. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(1) (1) (A) (ii) of the NSLA]:

<https://webnew.ped.state.nm.us/bureaus/student-success-wellness/>

14. Signature and title of requesting official:

Michael A. Chavez

Michael A. Chavez, Director
New Mexico Public Education Department
Student Success and Wellness Bureau
120 S. Federal Place, Suite 207
Santa Fe, NM 87501

TO BE COMPLETED BY FNS REGIONAL OFFICE:

FNS Regional Offices are requested to ensure the questions have been adequately addressed by the State agency and formulate an opinion and justification for a response to the waiver request based on their knowledge, experience and work with the State.

Date request was received at Regional Office:

Check this box to confirm that the State agency has provided public notice in accordance with Section 12(l)(1)(A)(ii) of the NSLA

• Regional Office Analysis and Recommendations:

XApproved
Effective date of approval 11/23/2020

Denied
Reason for denial:

_____	Branch Chief, Community Nutrition Programs	_____
Signature	Title	Date