



Food and
Nutrition
Service

December 23, 2020

Braddock
Metro Center

Ms. Vonda Ramp
State Director, Child Nutrition Programs
Pennsylvania Department of Education
333 Market Street, 4th Floor
Harrisburg, PA 17126

1320
Braddock
Place
Alexandria
VA 22314

Dear Ms. Ramp:

This letter is in response to the December 8, 2020 waiver request from the Pennsylvania Department of Education (PDE). PDE requested to waive the following statutory and regulatory requirements:

School Meal Programs

- 7 CFR 210.8(a)(1) and 220.11(d)(1), the requirement that school food authorities must review lunch service at all schools and breakfast service at a least 50% of schools under its jurisdiction by February 1.

Summer Food Service Program (SFSP)

- 7 CFR 225.2 which defines new sponsor as a sponsor which did not participate in the Program in the prior year, or, as determined by the State agency, a sponsor which has experienced significant staff turnover from the prior year.
- 7 CFR 225.7(d)(2)(ii)(B) the requirement 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 in the State in the prior year.

Child and Adult Care Food Program (CACFP)

- 7 CFR 226.2 which defines a new institution as, an institution applying to participate in the Program for the first time, or an institution applying to participate in the Program after a lapse in participation.
- 7 CFR 226.6(m)(3)(vii) the requirement to review meal service in independent centers for centers that have technological difficulties.
- 42 USC 1766(d)(2)(C)(i) [7 CFR 226.6(m)(6)] the requirement that at least 15 percent of the total number of facility reviews required must be unannounced.

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, PDE proposed an alternative oversight plan that includes allowing school food authorities to have the entire operating year to meet requirements in 7 CFR 210.8(a)(1) and 220.11(d)(1), rather than by the February 1 deadline. PDE will conduct School Meal Program reviews as required per their existing Administrative Review Cycle Waiver and all applicable Program regulations.

For both SFSP and CACFP, PDE will provide sponsors that had a lapse in participation because of COVID-19 a refresher training, in addition to all normal online training that returning organizations must complete, in order to ensure that Program operators are fully prepared to meet the requirements of the Programs.

For SFSP, while PDE has requested flexibility regarding meeting the one-half aggregate requirement found at 7 CFR 225.7(d)(2)(ii)(B), in order to ensure Program integrity, all other oversight and Program requirements will be met. This includes PDE continuing to review any sponsors that are due for their three-year review, any sponsor that experienced significant operational problems in the prior year, and reviewing at least 10% of each sponsors sites, or one site, whichever is greater.

For CACFP, PDE will continue conducting oversight and ensuring Program integrity by completing CACFP sponsor reviews virtually through a desk audit. Given the state's process of conducting off-site reviews, PDE will not be conducting unannounced reviews. Through PDE's desk audits, the state will conduct virtual meal observation or request photos of meal service from sponsors. For facilities that have technological constraints in meeting this requirement, an interview will be conducted in place of virtual observation. All other review requirements outlined in Program regulations will be met.

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 PDE's waiver requests through September 30, 2021. 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 requirement will facilitate PDE's ability to successfully carry out the purpose of the Programs.

PDE'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, PDE must take Program integrity measures to identify any misuse of Federal funds and identify fraudulent activities.

The waiver authority at section 12(1)(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 January 1, 2021, FNS is requiring that for the duration of this waiver, the PDE provide the FNS Mid-Atlantic Regional Office (MARO) a quarterly written report. The report must provide information on how the PDE 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 the PDE determine this waiver is no longer necessary prior to the expiration of the waiver, please notify the FNS MARO.

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 MARO.

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