



Food and  
Nutrition  
Service

January 6, 2021

Braddock  
Metro Center

Ms. Cheriee Watterson, Director  
South Dakota Department of Education,  
Child and Adult Nutrition Services  
800 Governors Drive  
Pierre, SD 57501-2235

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Braddock  
Place  
Alexandria  
VA 22314

Dear Ms. Watterson:

This letter is in response to the December 15, 2020 waiver request from the South Dakota Department of Education, Child and Adult Services, (SD DOE). SD 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.

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; and
- 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.

Child and Adult Care Food Program (CACFP)

- 7 CFR 226.6(m)(4) Review sponsored facilities; and
- 42 USC 1766(d)(2)(C)(i) & 7 CFR 226.6(m)(6) Frequency and number of required institution reviews. Annually review at least 33.3% of all institutions according to the schedule:
  - 7 CFR 226.6(m)(6)(i) Review independent centers and sponsoring organizations of 1 to 100 facilities at least once every three years, including reviews of 10% of their facilities;
  - 7 CFR 226.6(m)(6)(ii) Review sponsoring organizations with more than 100 facilities at least once every two years, including reviews of 5% of the first 1,000 facilities and 2.5% of the facilities in excess of 1,000;
  - 7 CFR 226.6(m)(6)(iii) Review new institutions that are sponsoring organizations of 5 or more facilities within the first 90 days of Program operations.

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, SD DOE would like to pause formal monitoring for fiscal year, (FY) 2021 and has proposed to add an additional year to their Administrative Review, (AR) cycle in the NSLP. They have also requested to add an additional year to their CACFP and SFSP review cycles. SD DOE plans to resume monitoring in line with program regulations in school year (SY) 21-22. To ensure program integrity, SD DOE plans to provide targeted technical assistance (TA) to sponsoring organizations and school food authorities (SFA). According to SD DOE, the state has experienced an increase in burden in SY 20-21 when conducting virtual reviews in all programs, due to a lack of technology in their rural districts. SD DOE has been conducting targeted TA for program operators which consists of one on one sessions and live 30 minute webinars every two weeks. SD DOE is not asking to waive any sponsor or SFA level monitoring for any programs and plans for local level operators to continue formal monitoring per regulations.

To ensure program integrity in the NSLP, SD DOE plans to continue to monitor food service management companies, per regulation. According to SD DOE they plan to provide targeted program training for any SFAs transitioning to the Seamless Summer Option (SSO) and will continue to review monthly edit checks to ensure integrity for claim submissions. SD DOE will provide SFAs monthly check-in calls, and webinars will be conducted to provide information around best practices for successful program operation. SD DOE has developed a resource for SFAs to assist with planning for SY 20-21, and has facilitated a training workshop for food service program operators.

To ensure program integrity in the SFSP, SD DOE will conduct monthly calls and webinars to provide best practices around program operations and answer specific questions. SD DOE will continue to monitor monthly claim submissions and will provide all sponsors a monthly bulletin with program updates, resources, trainings, and reporting deadlines. To ensure program integrity in the CACFP, SD DOE will provide live bi-weekly webinar training events in order to provide guidance on program requirements and any waivers that are implemented. Additionally, SD DOE will conduct monthly calls and webinars to provide best practices around program operations and answer specific questions. SD DOE will continue to monitor monthly claim submissions.

For all programs, SD DOE plans to implement follow-up desk reviews if an SFA or sponsoring organization is determined to be at risk of significant program integrity or

compliance issues, such as systemic meal counting and claiming errors, or non-compliance with the meal pattern.

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(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 SD DOE's waiver request effective through:

- September 30, 2021 for CACFP and SFSP monitoring requirements;
- June 30, 2024, for the NSLP administrative review cycle extension; and
- September 30, 2024, for the SFSP and CACP review cycle extension.

Please note that this approval only extends the review cycle 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 SD DOE's ability to successfully carry out the purpose of the Programs.

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

Sincerely,



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