



Food and
Nutrition
Service

January 6, 2021

Braddock
Metro Center

1320
Braddock
Place
Alexandria
VA 22314

Dr. Sandy Dawes, State Director
School Nutrition Program
Tennessee Department of Education
Andrew Johnson Tower, 10th Floor
710 James Robertson Parkway
Nashville, TN 37243

Dear Dr. Dawes:

This letter is in response to the December 10, 2020 waiver request from the Tennessee Department of Education School Nutrition Program, (TDOESNP). TDOESNP has requested to waive the following statutory and regulatory requirements in the 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 210.8(a)(1) School Food Authority, (SFA) reviews of lunch by February 1;
- 7 CFR 220.11(d)(1) SFA reviews of breakfast by February 1; and
- 7 CFR 210.9 (c)(7) Afterschool care 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, TDOESNP would like to pause Administrative Reviews (ARs) in school year (SY) 2020-21 and add an additional year to their current AR cycle. According to TDOESNP, 97% of all SFAs are operating SSO in their State currently, and therefore the state cannot conduct a normal AR in line with program regulations during SY 2020-21. Per TDOESNP's plan they will resume regular ARs in SY 2021-22. TDOESNP has also requested to waive the local level onsite reviews for SFAs. To ensure program integrity, TDOESNP has devised a detailed plan around off-site monitoring in the SSO, to include using Microsoft Teams to review the on-site SSO AR portions, off-site. They plan to continue to conduct SSO reviews during SY 2020-21, utilizing the nationwide off-site monitoring waivers previously granted by FNS.

To ensure program integrity in the NSLP, TDOESNP will continue to monitor SSO off-site. Per their plan, TDOESNP will be using Microsoft Teams to monitor real time on-site requirements such as viewing students choosing meals and going through the point of service. As part of the review they plan to collect information about program operations such as counting and claiming, menu planning and food safety, as well as production records, and wellness policies. Additionally, all SSO claims will be reviewed and should any outliers be identified, an interview will be conducted with the SFA in question, and a follow up unscheduled review will be administered off-site, as necessary. TDOESNP has already conducted training with and set up a virtual platform for every SFA that was due for an AR in the NSLP for SY 20-21, and they plan to use this platform to review those SFAs utilizing the SSO. Trainings will continue to be provided to all SFAs operating the SSO and biweekly meetings are being conducted to answer any questions from SFAs.

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 TDOESNP's waiver request effective through:

- June 30, 2021, for the NSLP monitoring requirements; and
- June 30, 2022, for the NSLP administrative review cycle extension.

Please note that this only extends the NSLP administrative review cycle and does not waive the requirement itself 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 TDOESNP's ability to successfully carry out the purpose of the Programs.

TDOESNP's oversight plan, as discussed above, provides assurance that TDOESNP 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, TDOESNP 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 April 1, 2021, FNS is requiring that for the duration of this waiver, TDOESNP provide the FNS Southeast Regional Office (SERO) a quarterly written report. The report must provide information on how TDOESNP 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 TDOESNP determine this waiver is no longer necessary prior to the expiration of the dates listed above, please notify the SERO.

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 SERO.

Sincerely,



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