

United States Department of Agriculture

Food and
Nutrition
Service

May 18, 2022

Braddock
Metro Center1320
Braddock
Place
Alexandria
VA 22314Brigitte Hires, Director
Ohio Department of Education
25 S. Front Street
Columbus, Ohio 43215

Dear Brigitte Hires,

This letter is in response to the February 28, 2022, waiver request from the Ohio Department of Education (ODE). The ODE requested to waive the following statutory and regulatory requirements:

Child and Adult Care Food Program (CACFP)

- 7 CFR 226.6(m)(3)(i) Recordkeeping (including all records listed at 7 CFR 226.15(e));
- 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 (at least 15 percent of the total number of facility reviews required must be unannounced);
- 42 USC 1766(d)(2)(C)(i) & 7 CFR 226.6(m)(6)(i) Review independent centers and sponsoring organizations of 1 to 100 facilities at least once every three years and include reviews of 10% of their facilities; and
- 42 USC 1766(d)(2)(C)(i) & 7 CFR 226.6(m)(6)(ii) Review sponsoring organizations with more than 100 facilities at least once every two years and include reviews of 5 percent of the first 1,000 facilities and 2.5 percent of the facilities in excess of 1,000.

The Food and Nutrition Service (FNS) recognizes that due to the exceptional circumstances of the COVID-19 public health emergency, many Child Nutrition Program monitoring requirements continue to be difficult for State agencies and local operators to meet this year. FNS recognizes that State agencies and local operators continue to need additional support and flexibility to monitor while managing the impacts of COVID-19. 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, ODE proposed an alternative oversight plan that includes completing reviews scheduled for the 2021-2022 program year (PY) to the maximum extent possible and carrying over reviews they are unable to complete into the PY 2022-2023. To ensure program integrity, ODE will monitor claims in comparison to 2020-2021 to identify any abnormal claim submissions. According to ODE, limiting the documentation review initially to only the sites selected for review decreases the administrative burden on the sponsors and the state agency while still completing the compliance review. If the limited

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documentation review reveals any concerning errors ODE will add additional sites for documentation review.

To ensure program integrity in the CACFP, ODE will provide technical assistance through bi-weekly emails to all sponsors and conduct webinar-based trainings. Additionally, the Education Program specialist will conduct “office hours” on a regular basis and individually contact each assigned sponsor at least twice in the PY and conduct virtual regional trainings.

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, does 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 ODE’s waiver request effective through:

- September 30, 2022 for CACFP monitoring requirements;
- September 30, 2023 for the CACFP review cycle extension.

Please note that this waiver only extends the CACFP review cycle and does not waive the requirement itself for a review cycle in the Program. 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 ODE’s ability to successfully carry out the purpose of the Programs.

ODE’s oversight plan, as discussed above, provides assurance that ODE 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, ODE must take program integrity measures to identify any misuse of Federal funds and identify fraudulent activities.

The waiver authority at section 12(l) of the NSLA requires FNS to review the performance of any State or eligible service provider that was granted a waiver. Therefore, by December 31, 2022, ODE must provide the FNS Midwest Regional Office (MWRO) a written report quantifying the impact of the waiver, as described below.

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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 ODE determine this waiver is no longer necessary prior to the expiration of the dates listed above, please notify the FNS MWRO.

FNS appreciates the exceptional effort of State agencies and local program operators working to meet the nutritional needs of participants during a challenging time. If you have any questions or concerns, please contact the FNS MWRO.

Sincerely,

DocuSigned by:

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