

CHILD NUTRITION PROGRAM STATE WAIVER REQUEST TEMPLATE

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(l) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(l), provides authority for USDA to waive requirements for State agencies or eligible service providers under certain circumstances. When requesting the waiver of statutory or regulatory requirements for the Child Nutrition Programs (CNP), including the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the National School Lunch Program (NSLP), the Fresh Fruit and Vegetable Program (FFVP), the Special Milk Program (SMP), and the School Breakfast Program (SBP), State agencies and eligible service providers should use this template. State agencies and eligible service providers should consult with their FNS Regional Offices when developing waiver requests to ensure a well-reasoned, thorough request is submitted. State agencies and eligible service providers are encouraged to submit complete waiver requests at least 60 calendar days prior to the anticipated implementation date. Requests submitted less than 60 calendar days prior to the anticipated implementation should be accompanied by an explanation of extenuating circumstances.

For more information on requests for waiving Program requirements, refer to SP 15-2018, CACFP 12-2018, SFSP 05-2018, *Child Nutrition Program Waiver Request Guidance and Protocol- Revised*, May 24, 2018.

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

Arizona Department of Education
Melissa Conner, Associate Superintendent of Health and Nutrition Services Division
1535 W. Jefferson St., Bin #7
Phoenix, AZ 85007
602-542-8700
Melissa.Conner@azed.gov

2. Region: Southwest

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

All SFAs participating in the NSLP and SSO, as well as participating SFSP sponsors in AZ.

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(l)(2)(A)(iii) and 12(l)(2)(A)(iv) of the NSLA]:

The challenge the SA is currently facing is not all the Administrative Reviews scheduled at the end of the 2019-2020 School Year and the majority of the SFAs scheduled for a 2020-2021 School Year Administrative Review were not and will not be able to be conducted within their scheduled review cycle. When the school closures occurred in March 2020, Administrative Reviews scheduled in the spring were rescheduled to occur during the 2020-2021 School Year. Most of the SFAS scheduled for a 2020-2021 School Year Administrative Review have transitioned to the Summer Food Service Program (SFSP) for the remainder of the school year, due to COVID-19: Child Nutrition Response #59 – Nationwide Waiver to Allow SFSP and SSO Operations through School Year 2020-2021 – EXTENTION.

The goal of the waiver is to extend the timing of the Administrative Reviews by one year. The SA will conduct all of the Administrative Reviews for SFAs that are operating NLSP this current school year.

For those SFAs that were not reviewed during the spring of 2020 due to the school closures or during the 2020-2021 School Year due to their transition to SFSP will receive an Administrative Review in Year 3 or 4 of the SA review cycle. Additionally, if an SFA is scheduled for an Administrative Review, they will receive the SSO portion of the Administrative Review prior or after the NSLP Administrative Review is conducted. The goal of extending the review cycle by one year is to ensure the SA has the ability to conduct Administrative Reviews with the number of staff available while ensuring each Administrative Review is conducted to maintain program integrity. *AZ will complete the SSO Review portion of the AR with additional questions related to waivers implemented by the SFA, and the SSO review will count as part of the official AR that will be scheduled to occur next school year.*

In addition to this, ADE has streamlined the At-Risk review requirements for SFAs participating in At-Risk and NSLP into the Administrative Review process in accordance with SP 09-2013, CACFP 04-2013. The SA will also need to apply this request to any SFA scheduled to receive an Administrative Review that was also participating in At-Risk. SFAs that have their Administrative Review extended for an additional year will receive their At-Risk review at the same time as the Administrative Review.

ADE is also requesting a waiver from requiring the State Agency to review a number of sponsors whose program reimbursement is half of the total program reimbursement in the State from the prior year. *The rationale for this is when this state plan was due, our FY20 reimbursements were not yet finalized. We anticipated the amount being far greater for FY20 than in prior years, thereby increasing the monitoring we would be required to do in FY21 for SFSP. AZ will continue to monitor to the maximum extent practicable with our current resources but are unsure if we'll be able to meet the 50% requirement.*

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

The SA is requesting a waiver of [7 CFR 210.18(c)] *Timing of Administrative Reviews and Cycle* in order to utilize a four-year review cycle instead of a three-year review cycle. Included in this request is [7 CFR 226.6(m)(6)] Frequency and number of required institution reviews for SFAs operating At-Risk. Additionally, the SA is requesting a waiver of [7 CFR 210.18(f)] *Scope of Review* for questions dealing with on-site observations. The SA has opted into the State Agency COVID-19: Child Nutrition Response #41 – Nationwide Waiver of Onsite Monitoring Requirements in the School Meals Program – Revised – EXTENSION 2 and intends to complete the Administrative Reviews to the maximum extent practicable for each review question. Questions that specify on-site observations by the reviewer will be addressed to the maximum extent possible by working with the SFA and requesting additional documentation to provide detailed answers and documentation.

Additionally, the SA is requesting a waiver for [7 CFR 225.7(d)(2)(B)] which states the SA will annually review a number of sponsors whose program reimbursements, in aggregate, accounted for at least one half of the total program reimbursements in the State the prior year.

Finally, the SA is requesting a waiver of [7 CFR 210.18(e)(ii)] *National School Lunch Program's Seamless Summer Option* which states that the SA must review the SSO according to the FNS AR Manual. The AR Manual indicates that the SSO review may be conducted in the summer prior to or following the scheduled Administrative Review. The SA will be conducting SSO reviews starting in January 2021 and is requesting a waiver to count those as part of the AR the following school year when the rest of the AR components can be completed.

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

The SA will continue to conduct Administrative Reviews for SFAs scheduled for an Administrative Review during the 2020-2021 School Year that have not transitioned to the SFSP. The SA has opted into COVID-19: Child Nutrition Response #41 – Nationwide Waiver of Onsite Monitoring Requirements in the School Meals Program – Revised – EXTENSION 2 and will continue to monitor activities of Program operations offsite, to the maximum extent practicable, through a desk audit. The desk audit will continue to include a review of all program requirements except for on-site requirements and some questions associated with an on-site visit. Reviewers will be able to gather information typically answered during an on-site visit remotely, such as the picture and location of the food safety plan, latest health inspection report and “And Justice for All” poster. Additionally, video conferences (Microsoft TEAMS, Zoom, etc.) will be used for entrance and exit conferences and technical assistance.

Additionally, ADE will conduct a risk assessment on all entities on the current review schedule, along with any SFA who have switched from SSO to Simplified who did not receive an SSO review and those SFAs who are new to the Simplified program.

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

The SA has taken steps to adjust the review procedures to monitor compliance in the Child Nutrition Programs. The SA has collected documents and pictures from the SFAs in order to collect Administrative Review data and has implemented video conferences to conduct entrance conferences, exit conferences and to provide technical assistance to ensure all monitoring requirements are met. [This will ensure that all SFAs receive an AR within the newly extended 4-year cycle and allow AZ to start a new review cycle for all SFAs in SY 2022-2023.](#)

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

SFAs that participate in NSLP may not receive an Administrative Review within the review cycle or a new SFA may not receive an Administrative Review during their second year of operation. SFAs may miss technical assistance and regulatory guidance provided during the review process. [Because of this concern, AZ would like to only extend the review cycle one additional year \(increasing to a 4-year cycle\) and thus allowing SFAs to continue to receive the valuable TA and monitoring that occurs during the AR. AZ will then return to a 3-year cycle at the start of SY 2022-2023.](#)

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(l)(1)(A)(iii) of the NSLA]:

The waiver will not increase the overall cost of the Program to the Federal Government since costs associated with conducting Administrative Reviews will not increase with the extension of the review cycle. Less Administrative Reviews will be conducted during the 2020-2021 School Year and with the extension of the review cycle by one-year, Administrative Reviews will be spaced out as in a typical review schedule and will not burden the Federal Government with additional costs.

10. Anticipated waiver implementation date and time period:

For the effected Administrative Reviews and At-Risk Reviews: March 15, 2020 (beginning of Year 2) – June 30, 2023 (end of Year 4).

For the effected SFSP Reviews: January 1, 2021 thru September 30, 2021

11. Proposed monitoring and review procedures:

The SA will continue to conduct Administrative Reviews for SFAs scheduled for an Administrative Review during the 2020-2021 School Year that have not transitioned to the SFSP. The SA has opted into COVID-19: Child Nutrition Response #41 – Nationwide Waiver of Onsite Monitoring Requirements in the School Meals Program – Revised – EXTENSION 2 and will continue to monitor activities of Program operations offsite, to the maximum extent practicable, through a desk audit. The desk audit will continue to include a review of all program requirements except for on-site requirements and some questions associated with an on-site visit. Reviewers will be able to gather information typically answered during an on-site visit remotely, such as the picture and location of the food safety plan, latest health inspection report and “And Justice for All” poster. Additionally, video conferences (Microsoft TEAMS, Zoom, etc.) will be used for entrance and exit conferences and technical assistance.

For SFSP reviews, ADE will follow the steps outlined in the State Agency monitoring plan. This will include reviewing everyone on the current 3 year review cycle, along with any SFAs new to the simplified program and new to SFSP.

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

As required by section 2202(d), the SA will, no later than one year after the date such State implemented the waiver, submit a report to the Secretary that includes a summary of the use of this waiver by the SA and local program operators, and a description of whether this waiver resulted in improved services to children.

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

Waivers Released by USDA in Response to COVID-19:

<https://www.azed.gov/sites/default/files/2020/09/WaiversReleasedbyUSDAinResponsetoCOVID19.pdf>

14. Signature and title of requesting official:

Original Signed

Name: Melissa Conner

Title: Associate Superintendent

Requesting official's email address for transmission of response: Melissa.Conner@azed.gov

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: