

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST – Flexibility for the Administrative Review Cycle
Requirement Pursuant to 7 CFR 210.18

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, refers to SFSP 01-2019, Summer Food Service Program Waiver Recession date October 11, 2018.

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

South Carolina Department of Education (SCDE)
Mr. Ronald F. Jones, Director, Office of Health and Nutrition
rfjones@ed.sc.gov; 803-734-8205

2. Region: Southeast

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

This state-wide waiver request applies to all eligible SFAs that are considered low risk according to SCDE evaluation as of March 2019, South Carolina had 138 SFAs. The requested waiver would apply to all SCDE approved School

Food Authorities (SFAs) that participate in the National School Lunch Program, including those SFAs who contract with a Food Service Management Company (FSMC) and those who do not contract with a FSMC; all are currently either in good standing or under corrective action to address deficiencies identified in the Administrative Review (AR). The waiver will cover all SFAs and our office will conduct reviews more often, if needed.

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]:

Challenge to Solve:

Section 210.18(c) of the Code of Federal Regulations requires that administrative reviews of all school food authorities participating in the National School Lunch Program (including the Afterschool Snacks and the Seamless Summer Option) and School Breakfast Program at least once during a 3-year review cycle, provided that each school food authority is reviewed at least once every 4 years.

SCDE concurs with the importance of conducting administrative reviews in a timely manner. However, since SCDE has an established protocol for determining low, medium, and high risk SFAs, we believe that the resources of SCDE must be leveraged in a manner that will have the greatest effect on the integrity of the Program, yet balance the administrative and financial burdens on our School Food Authorities that are low risk.

SCDE would like to conduct administrative reviews of low risk SFAs at least once every five years beginning with the most recent review of those SFAs based upon risk analysis scores as of March 2019. Medium and high risk SFAs will continue to receive administrative reviews at least once every three years.

SCDE is requesting a state-wide waiver for Administrative Reviews for National School Lunch Program (including the Afterschool Snacks and the Seamless Summer Option) and School Breakfast Program flexibilities and policies that are allowed by the USDA Food and Nutrition Service (FNS) on February 22, 2019 through SP 12-2019 Flexibility for the Administrative Review Cycle Requirement Memoranda.

Goal of the Waiver to Improve Services under the Program:

The goal of this waiver is to allow SCDE to concentrate efforts and resources on SFAs that are medium to high risk without overburdening SFAs that are low risk with more frequent Administrative Reviews. This flexibility will allow for efficient

and cost effective program management and reduce administrative burden for low risk SFAs and the SCDE Office of Health and Nutrition.

Expected Outcomes:

Approval of the waiver will allow SCDE to focus more efforts on medium to high risk SFAs to ensure effective program management and operation. If approved, SCDE will not be required to spend additional funds and staff time to update technology systems and revise state-wide training and review procedures.

5. Specific Program requirements to be waived (include statutory and regulatory citations). [7CFR 210.18(c), 7CFR 210.19(a)(5), 7CFR210.18(a)(5)]

SCDE is requesting a waiver from the requirements of Section 210.18(c) of Title 7 of the Code of Federal Regulations that requires that administrative reviews of all school food authorities participating in the National School Lunch Program (including the Afterschool Snacks and the Seamless Summer Option) and School Breakfast Program at least once during a 3-year review cycle, provided that each school food authority is reviewed at least once every 4 years.

In addition, SCDE is requesting a waiver from the requirements of Section 210.19(a)(5) that requires SFAs that contract with FSMC be reviewed at least once during a 3-year period.

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

All SFAs are included in this waiver request, however high and medium risk SFAs will be reviewed more often. SCDE will conduct administrative reviews of low risk SFAs at least once every five years beginning with the most recent review of those SFAs based upon risk analysis scores as of March 2019. Medium and high risk SFAs will continue to receive administrative reviews at least once every three years.

This will provide medium and high risk SFAs more concentrated efforts from SCDE to move from medium or high risk to low risk.

This waiver will significantly decrease administrative burden, allow for efficient and effective oversight of program operations, and allow all SFAs to meet the need of participating children. SCDE will continue to ensure program integrity through technical assistance visits and training for low risk SFAs. The low risk SFAs will have TA visits scheduled at a minimum of one every two years.

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

SCDE has not experienced any major regulatory barriers. We applied and obtained the ART grant to reduce the number of component and quantity finding. This waiver will provide additional time for TA and support to SFAs. Below is our risk assessment scale that is used for all SFAs.

SCDE Office of Auditing Services			
Program Management's Assessment of Subrecipient's Risk			
12/20/2018			
Name of Rater:		Program Name:	
Taking the following criteria into consideration based upon performance of your program's subrecipients from July 1, 2015 thru the present, rate each of your subrecipients using the scale below each criteria to designate high, medium, or low risk in each criteria. Return the completed assessment to Melissa Myers at mmyers@ed.sc.gov by January 18, 2019.			
Criteria	High Risk	Medium Risk	Low Risk
Criteria 1 High turnover in key personnel	-	- Stability in key personnel	- Experienced key personnel
Criteria 2 Required reporting not submitted	-	- Required reporting submitted but not timely	- Required reporting submitted timely
Criteria 3 Significant programmatic noncompliance noted during monitoring visits	-	- Minor programmatic deficiencies noted during monitoring visits	- Very minimal or no instances of programmatic noncompliance
Criteria 4 Significant fiscal deficiencies noted during monitoring visits	-	- Minor fiscal deficiencies noted during monitoring visits	- Very minimal or no instances of fiscal deficiencies
Criteria 5 Failed to meet performance requirements, expectations, and outcomes	-	- Met most performance requirements, expectations, and outcomes	- Met performance requirements, expectations, and outcomes
Criteria 6 Frequent need and requests for support and technical assistance	-	- Periodic requests for support and technical assistance	- Infrequent requests for support and technical assistance

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

SCDE does not anticipate any challenges with implementation of the Flexibility for the Administrative Review Cycle Requirement waiver regarding low, medium and high risk SFAs as requested.

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

This request will not impact the overall cost of the Program to the Federal Government.

10. Anticipated waiver implementation date and time:

This waiver is being requested for approval for a minimum duration of five years. If granted, implementation of this waiver will be implemented immediately for the School Year 2019-2020.

11. Proposed monitoring and review procedures:

SCDE will continue to follow the administrative review procedures as outlined and continue to provide training and technical assistance to SFAs in need of guidance.

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

Annually, as requested, SCDE will provide FNS with required reports to include a list of SFAs that are considered low risk under the waiver. SCDE will also report to FNS any compliance issues noted with these flexibilities during administrative reviews.

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]:

A copy of the public notice can be found on SCDE's website at:

[State Waiver Request](#)

14. Signature and title of requesting officials:

Respectfully submitted,

Title: Director, Office of Health and Nutrition

Requesting official's email address for transmission of response:

rfjones@ed.sc.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:

☐ **X 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: