

To: All agencies and organizations sponsoring School Nutrition Programs, Summer Food Service Program, and Child and Adult Care Food Program in the State of Indiana

From: Julie Sutton, Director of School and Community Nutrition

Date: November 10, 2020

Subject: Waiver Request for Flexibility for Administrative and Site Reviews, Monitoring and Technical Assistance in All School Nutrition Programs

Given that COVID 19 has been unpredictable in its outbreak and its effect on local communities within the state, the Indiana Department of Education School & Community Nutrition (IDOE SCN) is requesting a waiver from normal Administrative and Site Review requirements. Administrative Reviews will be conducted on a limited basis and will vary by program. Instead, detailed monitoring and structured technical assistance visits will be the focus for all programs under the Child Nutrition Programs umbrella: School Nutrition Programs (SNP), Summer Food Service Program (SFSP), and Child and Adult Care Food Program (CACFP).

This waiver request includes extensions of the current review cycles in order for state agency staff to be able to conduct complete reviews of normal program operations. Therefore, Administrative Reviews will be limited to specific sponsors for which reviews are required. Program integrity, including following all program requirements, will continue to be expected by all Indiana sponsors and will be monitored through extensive and structured technical assistance visits. Sponsors found to have noncompliance issues related to meal pattern and/or claiming and counting will work with the State agency on individualized corrective action plans. Where applicable, targeted reviews may be conducted for identified program errors resulting in overclaims. Fiscal action will be applied according to USDA regulations, including certified mail notification with appeal rights. State agency staff will schedule follow-up meetings as needed to ensure ongoing compliance.

Specific details of the waiver are attached to this document.

This waiver request is for the period now through September 30, 2021.

CC: All Indiana Child Nutrition Program Sponsors
USDA MWRO

INDIANA WAIVER EXTENSION REQUEST**Waiver for Flexibility for Administrative and Site Reviews, Monitoring and Technical Assistance in All School Nutrition Programs**

Summary of Request: Given that COVID 19 has been unpredictable in its outbreak and its effect on local communities within the state, the Indiana Department of Education School & Community Nutrition (IDOE SCN) offers this comprehensive review and monitoring waiver request for all programs under the Child Nutrition Programs umbrella: School Nutrition Programs (SNP), Summer Food Service Program (SFSP), and Child and Adult Care Food Program (CACFP). This waiver request includes extensions of the current review cycles in order to conduct complete reviews of normal program operations, as well as a plan for monitoring program integrity through extensive and structured technical assistance visits to sponsors serving meals during this unprecedented time. This waiver request is for the period now through September 30, 2021.

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

Indiana Department of Education
Office of School and Community Nutrition
115 W Washington St, South Tower, Suite 600
Indianapolis, IN 46204

Julie Sutton, Director, Child Nutrition Programs
Ph. (317) 232-0845, jsutton@doe.in.gov

For questions regarding CACFP, contact
Heather Stinson, Assistant Director
Ph. (317) 232-0869, hstinson@doe.in.gov

For questions regarding SNP or SFSP contact
Marcia Yurczyk, Assistant Director
Ph. (317) 232-0852, myurczyk@doe.in.gov

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

All Indiana Child Nutrition Sponsors currently in good standing with Indiana Department of Education and approved to operate any or all the following programs: School Nutrition Programs, Summer Food Service Program, and Child and Adult Care Food Program

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]:

COVID 19 has created a cycle of uncertainty in schools, businesses, and communities within the state. School closures and staffing shortages because of COVID 19 outbreaks have resulted in interruptions in program operations. School food service staff are challenged by personnel shortages due to illness of employees and/or their families, making normal program operation and recordkeeping tasks very difficult to maintain. Even within the state agency, travel restrictions, ongoing staff health concerns, and the unpredictability of COVID 19 recovery statewide makes scheduling administrative reviews in all programs unpredictable. By presenting this alternative plan for program monitoring and technical assistance, the state agency hopes to maintain program integrity, ensure program compliance, and provide support and guidance to sponsors through detailed technical assistance. Therefore, the Indiana Department of Education Office of School & Community Nutrition presents the following waiver requests by program:

School Nutrition Programs – State Agency Monitoring Requirements

7 CFR 210.10(h)(2) – Requirement to review trans-fat: The US food industry has essentially eliminated trans-fat in foods produced in the US as of January 1, 2020, therefore making this requirement to review obsolete. IDOE SCN is requesting this requirement be waived.

7 CFR 210.18(c) – Timing of administrative reviews: In order to conduct complete reviews which observe normal practices of all required review components, IDOE SCN requests a temporary waiver to extend the current three year review cycle to a four year cycle, thus moving a majority of the administrative reviews scheduled to be conducted during the 2020-21 program year to the following year. Only the sponsors operating normal school nutrition programming, National School Lunch Program and School Breakfast Program claiming and counting, that are currently up for review in program year 2020-21 and for which all review elements including on site reviews of required program modules, would be conducted when possible. Should it be impossible to go on site to conduct a complete review of all review modules, including Resource Management, the review will be moved to the following program year. Since Procurement Reviews are conducted within the State during the same year as an Administrative Review, this waiver request also asks that procurement reviews follow the same extended cycle.

Summer Food Service Program – State Agency Monitoring Requirements

7 CFR 225.7(d) Program monitoring and assistance, including

7 CFR 225.7(d)(2)(ii)(A) – Review all new sponsors within the first year of operation

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 prior year

7 CFR 225.7(d)(2)(ii)(D) – Review every sponsor at least once every three years

7 CFR 225.7(d)(2)(ii)(E) – Conduct reviews of at least 10 percent of each sponsor’s sites or one site,

7 CFR 225.7(d)(3) – Conduct follow up reviews of sponsors and sites as necessary

7 CFR 225.7(d)(6) – Inspect FSMC facilities

Due to COVID restrictions put in place for travel for state employees over the summer of 2020, IDOE SCN summer field staff have continued to conduct desk reviews of the required SFSP sponsors necessary to meet the above review requirements for the PY 2020 SFSP program year. The desk audits, currently ongoing, have taken more time than traditional on-site SFSP administrative reviews normally take and have likely been less thorough because, in most cases, site visits could not be conducted by field staff. Indiana now has over 70 new SFSP sponsors since August 2020 due to the COVID-19 Child Nutrition Response #59 waiver. To complete all required reviews thoroughly and in keeping with program integrity, it would be impossible to complete additional reviews for PY 2021, especially since sponsors operating SFSP sites are doing so under the COVID waivers and not operating “normal” SFSP sites, for which all of the review elements were originally written. Therefore, IDOE SCN requests a waiver to replace required 2021 SFSP administrative and site reviews required as outlined in all the regulations listed above with structured detailed technical assistance.

If structured technical assistance with sponsors, as outlined in #5 below, results in program integrity suspicions in the critical elements of claiming and counting or meal pattern compliance, the State Agency staff will immediately conduct an official targeted review of those specific areas and require corrective action, where needed. The targeted reviews will take place off-site as an official desk review or on-site, depending upon the ability of field staff to travel to specific areas of the state and whether sponsor personnel are available to host state agency staff on-site. If fiscal action for overclaims is required, notification of specific findings and appeal rights will be issued via certified mail. The targeted review will not take the place of nor count as a full administrative review and will only be conducted in the event of evidence of noncompliance with regulatory requirements associated with sponsor claims.

Child and Adult Care Food Program – State Agency Monitoring Requirements

7 CFR 226.6(m)(2) Review priorities

7 CFR 226.6(m)(3) Review content

7 CFR 226.6(m)(4) Review of sponsored facilities

7 CFR 226.6(m)(6) Frequency and number of required institution reviews

7 CFR 226.23(h)(1) Verification of eligibility

Due to the previously mentioned challenges, Child and Adult Care Food Program institution reviews that are completed by the state agency will be pushed back by one year. Program reviews that were due to be completed in fiscal year 2021 will be completed in fiscal year 2022. Program reviews due in fiscal year 2022 will move to 2023, and so on. State agency staff will continue to maintain oversight and integrity while also providing services and support as outlined in the response to question five.

Child and Adult Care Food Program – Sponsoring Organization Monitoring Requirements

Challenges similar to those of the state agency have also affected CACFP participating organizations, including travel restrictions, increased staff illnesses, and public health concerns. While sponsoring organizations are conducting desk reviews, this type of review often takes more time to complete. Increased time is due to a variety of factors such as frequent facility closings or limited staff, implementing new procedures, and technology issues.

Sponsoring organizations will find it difficult to complete the required three monitor reviews for all facilities. IDOE is requesting the following regulations be waived for Indiana.

7 CFR 226.16(d)(4)(iii) *Frequency and type of required facility reviews*. Sponsoring organizations must review each facility three times each year and

7 CFR 226.16(d)(4)(iii)(D) Not more than six months may elapse between reviews

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

SNP and SFSP

In lieu of program reviews, the IDOE SCN staff will conduct a minimum of two detailed technical assistance visits, either virtually or if possible, in person, for all sponsors operating SNP and SFSP. Field specialists will follow a detailed outline for providing technical assistance and review of sponsor/site practices related to claiming and counting and meal pattern compliance for the respective programs being operated by sponsors. Sponsor required monitoring documentation will be reviewed and feedback and follow up will be provided by field staff. All technical

assistance visits will be structured to document each sponsor's operation of critical elements which if identified as being at risk, will flag follow up requirements through additional technical assistance visits. Egregious findings, such as missing meal pattern components and/or claiming and counting errors, will immediately result in a targeted review and fiscal action will be applied, when necessary. There are no impacts on technology or State systems.

CACFP – State Agency

To continue to maintain oversight and integrity while also providing services and support, state agency staff will implement the following:

- Provide a minimum of one direct technical assistance virtual meeting with every participating institution, which will include the following topics:
 - Waiver options and implementation
 - Review waivers being utilized
 - Ensure implementation aligns with requirements
 - Request the opt-in form be completed if necessary
 - Civil rights
 - Review requirements and ensure they are implementing correctly, including:
 - Displaying And Justice For All poster
 - Use of nondiscrimination statement
 - Complaint procedure, form, and log
 - Equal access provided (including infants)
 - Racial ethnic data collection
 - Non-pricing policy
 - Completing required training
 - Handling special dietary needs
 - Budget accuracy (except schools on SNPs)
 - Review the institution's current budget with them
 - Discuss expenses and use of funds to ensure it is accurate
 - Verify allocation is used properly when necessary
 - Acceptable accounting system (except schools on SNPs)
 - Discuss how system is used
 - Review requirements for documenting carry over and current balance
 - Menus and meal pattern
 - Review menu and supporting documents and review meal pattern concerns and suggestions
 - CACFP related challenges
 - Ask and document any challenges the institution is having and assist as possible
 - Any additional topics requested by the institution
 - Resources that may be helpful based on the meeting
- Provide monthly online training opportunities for institutions, including the following topics:
 - December: Claim and application system upgrades and usage

- January: General refresher training (3-day webinar reviewing all basic CACFP requirements) and training on filing the Annual Financial Report
- February: Not yet decided*
- March: IFBs and contracts
- April: General refresher training (3-day webinar reviewing all basic CACFP requirements)
- May: Not yet decided*
- June: Ounce equivalents
- July: Not yet decided*
- August: Annual program renewal
- September: Not yet decided*
 - *A survey will be sent to sponsors to collect information on training needs and wants. Based on that survey, additional topics will be determined.
- Conduct full desk reviews of new institutions
- Conduct targeted partial reviews (completed off-site as desk reviews) for a minimum of 10% of institutions including:
 - Those found to be seriously deficient in the previous fiscal year
 - Institutions with the largest increase in reimbursement
 - Any other institutions for which the state agency has concerns about their operation or reimbursement throughout the fiscal year.
- Targeted partial reviews will include, at a minimum, a review of:
 - Process/implementation of waivers
 - Menus/meal pattern
 - Financial management
 - Training
 - Any areas for which a serious deficiency was found in the previous fiscal year

CACFP – Sponsoring Organizations

Instead of the required three monitor reviews, IDOE will require sponsoring organizations complete two monitor reviews in fiscal year 2021. To maintain oversight and program integrity, sponsoring organizations will be required to complete all three monitor reviews only for those facilities that are determined to be seriously deficient or are new facilities with the sponsoring organization in fiscal year 2021.

Indiana’s requirement that all facility monitor reviews be unannounced and include the observation of a meal service will remain in place. Unannounced, for the purposes of a desk review, will mean not providing prior notice before documentation is requested for review. Sponsors have been provided training (and will continue to receive assistance) on conducting a meal service observation with a desk review, including ways to conduct a virtual observation or collect pictures when a virtual observation is not possible.

Sponsors will have the flexibility to decide if monitor reviews will be off-site or on-site based on the public health emergency statistics and information for the areas they serve, their organization's procedures, and their facilities' specific situations.

6. 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]:

Indiana does not have any State statutory or regulatory barriers that apply to this waiver request.

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

No challenges for State or sponsoring agencies are anticipated in implementation of this waiver. In fact, implementation of this waiver will decrease the challenges of SFSP and SSO sponsors trying to feed hungry children during this unprecedented time.

8. 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 establishment of this state-wide waiver will not increase the overall cost of the Program to the Federal Government.

9. Anticipated waiver implementation date and time period:

Indiana would implement this waiver as soon as approved with the understanding that the waiver would expire September 30, 2021.

10. Proposed monitoring and review procedures:

SNP and SFSP

In addition to the procedures outline in #5 of this document, the State Agency will develop specific technical assistance guidance to be used by field staff. Sponsors found to have noncompliance issues specifically related to meal pattern and/or claiming and counting will work with the State agency on an individualized corrective action plans. A specific technical assistance checklist for each program, SFSP and SNP, will be developed and used consistently by all field staff. This checklist will cover critical components such as meal pattern and claiming and counting compliance, in addition to all general areas normally covered during a review, such as all areas of Civil Rights, annual program training, maintenance of the nonprofit food service account, etc. When applicable, fiscal action will be applied according to USDA regulations including certified mail notification with appeal rights. State agency staff will schedule follow-up meetings as needed to ensure ongoing compliance.

CACFP

The CACFP monitoring and review procedures are outlined in the response to question five.

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

By December 31, 2021, the Indiana State Agency will report to FNS the following:

- 1) Number of SNP Administrative Reviews postponed to PY 2021-22 as a result of this waiver
- 2) Number of SNP Administrative Reviews conducted during PY 2020-21
- 3) Number of technical assistance visits conducted in SNP and SFSP in PY 2021.
- 4) Number of SFSP targeted reviews conducted in PY 2021
- 5) Number of CACFP trainings, technical assistance meetings, full reviews of new institutions and partial reviews of targeted institutions conducted in fiscal year 2021.

12. 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]:

<https://www.doe.in.gov/nutrition>

13. Signature and title of requesting official :

a. Julie Sutton

Title: Julie Sutton, School and Community Nutrition Director

b.

Requesting official's email address for transmission of response: jsutton@doe.in.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:

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- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
 - (2) fax: (202) 690-7442; or
 - (3) email: program.intake@usda.gov.
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