

**DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
FOOD AND NUTRITION SERVICES
CHILD NUTRITION PROGRAM
STATE WAIVER ADMINISTRATIVE REVIEW REQUEST**

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 (CNPs), 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.

**Waiver Request-Administrative Review 3-year Cycle to a 5-year Cycle
May 17, 2019**

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

Missouri Department of Elementary and Secondary Education (DESE), Food and Nutrition Services (FNS)
Barbara Shaw, Coordinator, DESE-FNS
Barbara.shaw@dese.mo.gov
573-751-3526

2. Region: Mountain Plains

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

This waiver request is applicable for DESE-FNS and affirms they are in good standing.

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]:

DESE-FNS is requesting a state-wide waiver of the 3-year Administrative Review (AR) requirement and to extend the review cycle to the 5-year cycle that was made available by the USDA Food and Nutrition Services (FNS) on February 22, 2019 through SP 12-2019 *Flexibility for the Administrative Review Cycle Requirement*.

The following challenges include:

- Compliance with returning the Administrative Review results report to the Local Education Agency (LEA) within required timeframes – The State Agency (SA) has struggled to complete the AR report within 30-calendar days of the date the exit review was conducted. The reports have often been returned in excess of 60 days.
- Nutrition Program Specialist (NPS) staff turnover – DESE-FNS has experienced consistent reviewer staff turnover since the implementation of the 3-year review cycle. This is a result of a demanding workload, lack of time for high quality training, and limited comprehension of the program regulations. In 2014, DESE-FNS was approved to staff additional NPS to put us currently at 10 NPS to cover the 9 Missouri regions in addition to the RCCI and Charter School region. In the 3-year cycle, each reviewer is assigned an average of 25-28 sites per school year to review. The remaining reviews have to be contracted out to Child Nutrition Resource (CNR).

| | | | |
|---|-------------------------|-------------------------|----------------|
| Local Education Agencies (LEAs) participating in NSLP | Public/Charter 563 | Non-Public/Other 137 | Total 700 |
| Sites participating in NSLP | Public/Charter 2,273 | Non-Public/Other 170 | Total 2,443 |

- Common repeat violations at the LEA due to limited quantity of on-site time and technical assistance provided by the NPS during the AR. The NPS has limited time to conduct high quality technical assistance during the time of a finding because of the high demand of a quick turn-around and to meet timeline requirements.

The following goals of the waiver to improve services under the Program apply:

- Enhance the consistency of the AR process with each NPS and overall program knowledge to ensure more thorough and consistent practices are in place when executing a review.
- Improve quality of technical assistance provided to LEAs throughout the AR.
- Decrease repeat violations found during each cycle of reviews through implementing more focused technical assistance in target risk areas specific to each LEA.
- Decrease NPS staff turnover due to a longer review cycle, fewer sites to review, more manageable deadlines, decreased travel burdens, and increased morale due to a more fulfilling experience helping to improve programs.
- Develop a targeted risk assessment to focus on higher risk schools to improve program compliance in those target areas.
- Meet timelines of the AR report being returned to the LEA.

- Use DESE-FNS staff time to concentrate on developing training modules and resources that have most current guidance for program performance.
- Decrease federal resources used on outsourced contract company to complete ARs.

The following outcomes to meet performance standards will apply:

- NPS will have additional time for technical assistance with each LEA and will be able to focus on high risk areas that may result in a decrease of findings, fiscal action, and repeat violations at the LEA.
- NPS will get relief from administrative burdens and more time to focus on developing higher quality training modules, develop more consistent standards of reviewing, and focus on creating resources when deficiencies are recognized.
- At the LEA level we hope to see less food service director turnover due to the decreased burdens of paperwork preparing for the AR. We hope to experience less LEAs turning to a Food Service Management Company (FSMC) for assistance.
- For Missouri students, we hope to see higher quality meals due to the food service staff receiving more assistance from the NPS on menu planning and maintaining the non-profit food service account.

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

DESE-FNS is requesting a waiver of the 3-year Administrative Review cycle and seeking approval to implement a 5-year review cycle. The current regulation that will be waived is 7 CFR 210.18 (c): State agencies must conduct Administrative Reviews of all school food authorities participating in the National School Lunch Program (including the Afterschool Snacks and the Seamless Summer Option) and the 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. For each State agency, the first 3-year review cycle started the school year that began on July 1, 2013, and ended on June 30, 2014. At a minimum, the on-site portion of the administrative review must be completed during the school year in which the review was begun.

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

Attachment A SP 15-2018, CACFP 12-2018, SFSP 05-2018 Page 2

Implementing a 5-year review cycle will allow the State agency to focus on providing higher quality technical assistance with our LEAs and offering relief to their Child Nutrition Program burdens. Currently the Procurement Review (PR) is on a 6-year cycle. DESE-FNS requests the approval to align the AR and Procurement Reviews on a 5-year cycle. Aligning the reviews would relieve tracking two different review cycles. LEAs who contract with a FSMC will still receive a PR on a 3-year cycle as required.

In order to maintain oversight of LEAs who have had significant noncompliance, an additional focused assessment review will be conducted at LEAs with the most risk for noncompliance. This additional assessment review will be conducted two years following the AR. The LEAs will be selected through the completion of a risk assessment. Based on the results of the risk

assessment, the NPS will conduct standardized technical assistance in each of the elevated risk areas. If an LEA has an elevated risk in the area of resource management, an abbreviated resource management review will be conducted. If aligns, this information could be used to cross reference with the PR. These additional focused assessment reviews will allow the NPS to ensure program integrity and compliance with regulations outside of the 5-year review cycle.

The 5-year cycle would take effect July 1, 2019. The first selections of LEAs for the 19-20 ARs would be selected from a list of all LEAs divided by 5, with priority given to the LEAs that have not received an AR for at least 3 years.

Our current system through Colyar Technology (CT) would be used to track the 5-year cycle for both AR and PR as well as the 3-year cycle for LEAs with a FSMC. This would eliminate the manual tracking spreadsheet currently used to track the PR.

The NPS have been brainstorming to create a risk assessment module that will assess levels of risk based on previous AR findings and fiscal action. A compliance tracking report will be implemented to gather the results of potential increased compliance due to increased customer service and focused technical assistance.

The 5-year cycle will not impact the SA's staffing or budget. The SA expects to spend less state and federal resources on outsourcing ARs. The usual time and travel spent conducting an AR will transition to time spent providing on-site and off-site training with the LEA, which has been a common request across the state. The waiver may have an impact on our current CT system however other states will also be working on a new build for a 5-year cycle. The decreased administrative burden on LEAs and DESE-FNS staff will be greatly appreciated across the state, and the additional resources it creates will only improve the efficiency of the Child Nutrition Program(s), which will positively impact Missouri students.

7. Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(1)(2)(A)(ii) of the NSLA]:

DESE-FNS implemented the 3-year cycle requirement when the AR was released in 2011. The compressed cycle challenged our staff to complete all scheduled reviews within the timeframes required. It was a shock going from the original 5-year CRE schedule where we had more time and fewer reviews. DESE-FNS staff experienced frequent turnover which made it challenging to train new staff and conduct the ARs within the required timeframes. The SA was granted approval to hire additional staff, but still experienced turnover. The SA has applied for and received grants to create on-line training modules that were used for technical assistance. The modules need to be updated to include updates of regulations and flexibilities. Additional modules also need to be created to cover materials related to procurement and food service management company regulations. Due to the load of reviews and time to complete them, there are still barriers in the 3-year AR cycle. During the implementation of the Procurement Review DESE-FNS created a position for Procurement. Instead of adding the PR to the AR, adding additional burden to NPS staff and timelines, it was best to contract with CNR to complete the PR. To lessen these burdens, DESE-FNS is submitting this wavier.

| Staffing and Administrative Review Summary | | | | |
|--|--------------------|--------------------------|---|------------------------------|
| School Year | Total AR completed | AR completed by DESE-FNS | AR completed by Child Nutrition Resources | Nutrition Program Specialist |
| 2013-2014 | 262 | 144 | 118 | 8 |
| 2014-2015 | 285 | 257 | 28 | 9 |
| 2015-2016 | 283 | 234 | 49 | 10 |
| 2016-2017 | 251 | 190 | 61 | 11 |
| 2017-2018 | 233 | 158 | 75 | 10 |
| 2018-2019 | 269 | 184 | 85 | 10 |

| Workload by region for SY 2018-2019 | |
|-------------------------------------|--------------|
| Region | Review Count |
| Southeast | 17 |
| West | 16 |
| RCCI/Charter | 24 |
| Central | 21 |
| East | 18 |
| Southwest Central | 25 |
| Southwest | 15 |
| Northwest | 20 |
| Southeast Central | 19 |
| Northeast | 24 |
| CN Resource | 70 |

| | |
|--------------|------------|
| Total | 269 |
|--------------|------------|

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

There are no anticipated challenges with waiver implementation, and it will not affect staffing or the current budget. Our LEAs will perceive the waiver as support. The SA will be able to focus on compliance and increase efficiency utilizing current state and federal resources. We will continue to enhance current process and procedures already in place to increase program integrity and improve child nutrition programs through additional focused assessment reviews and technical assistance. Developing individualized training for LEAs and implementing the additional focused assessment review may pose challenges. The NPS will utilize their time to develop the training and assessment reviews. The NPS will utilize the increased time between reviews to focus on compliant processes for each timeframe within the status of all their reviews including scheduling, off-site work, on-site work, follow-up, corrective action and closing reviews. The relief of the administrative burden will affect stakeholders across the state, especially in many of our rural districts that have limited resources and struggle to stay in compliance.

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]:

The SA anticipates a decrease in cost associated with travel, outsourcing ARs, and training due to staff turnover. We expect to make technology enhancements to create a 5-year tracking system within our current Colyar Technology System for the AR and PR. There is no anticipated impact on federal administrative cost for SA oversight with implementation of this waiver.

10. Anticipated waiver implementation date and time period:

This waiver will be implemented immediately upon approval for a 5-year cycle starting SY 2019-20 and ending SY 2023-24. Results and findings will be tracked to assess the success of the waiver. The SA would plan to renew the waiver if available during that time.

11. Proposed monitoring and review procedures:

DESE-FNS will continue to utilize internal procedures and software to monitor LEAs on all AR requirements in 7 CFR 210.8- Administrative Reviews. The 5-year cycle will align ARs and PRs. Under the proposed 5-year cycle, select LEAs will receive an additional focused assessment review with follow-up technical assistance in the high risk areas. Each LEA will receive an AR and a PR in a 5-year cycle. LEAs who contract with an FSMC will receive a PR on the required 3-year cycle. The 5-year cycle will improve Child Nutrition Program compliance and integrity. A survey will be conducted periodically to assess LEA feedback and concerns with the implementation of the new review cycles and the addition of the additional focused assessment review and technical assistance. Data from the survey will be analyzed by the SA to develop additional training and resources, which could vary among regions based on the results. The SA will ensure we are targeting compliance in deficient areas as well as utilizing the increased time and resources to focus on those deficient areas.

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

DESE-FNS will complete USDA Child Nutrition Program(s) FNS reports as required. The FNS-640 will be completed by March 1 along with a review of findings and technical assistance provided during the AR. Data will be compiled to show the effectiveness of the 5-year AR cycle waiver. LEAs who are required to conduct the Independent Review of Applications will be required to complete the FNS-874 report due March 15. With our proposed waiver request, we anticipate LEAs to receive more focused technical assistance in targeted areas, therefore reducing their findings.

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]: <https://dese.mo.gov/financial-admin-services/food-nutrition-services/administrative-reviews>

14. Signature and title of requesting official :



Barbara Shaw

Title: Coordinator, Food and Nutrition Services

Requesting official's email address for transmission of response:

Barbara.shaw@dese.mo.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: