



IOWA

Department of Education

Ann Lebo, Director

Adam Gregg, Lt. Governor

Kim Reynolds, Governor

October 19, 2021

Samia Hamdan
Midwest Regional Office
United States Department of Agriculture
77 W. Jackson Blvd., 20th Floor
Chicago, Illinois 60604

RE: Waiver to Modify Oversight and Review Requirements due to the COVID-19 Public Health Emergency in FY 22

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

Iowa Department of Education (Department), Bureau of Nutrition and Health Services

Kala Shipley, Bureau Chief, kala.shipley@iowa.gov, 515-281-4757

2. Region: Midwest

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

The Iowa Department of Education is requesting this waiver as the USDA Child Nutrition Program State Agency (SA) and on behalf of any organizations participating in the National School Lunch Program (NSLP), Seamless Summer Option (SSO), and Child and Adult Care Food Program (CACFP) during the 2021-2022 program year, who are deemed by the Iowa SA to be 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(I)(2)(A)(iiii) and 12(I)(2)(A)(iv) of the NSLA]:

The COVID-19 pandemic has created an administrative burden on the SA and local operators unlike ever before and recent supply chain disruptions and labor shortages have created considerable hardship on local operators. This waiver request seeks to decrease the administrative requirements while maintaining program integrity.

National School Lunch Program (NSLP) and Seamless Summer Option (SSO):

Challenges:

As of October 1, 2021, there is one Residential Child Care Institution (RCCI) operating NSLP and the remaining 433 School Food Authorities (SFAs) are implementing the SSO. The State

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Agency generally conducts approximately 90-100 NSLP administrative reviews (ARs) per school year. Administrative reviews that cannot be conducted in SY 2021-2022 must be completed during the next three years of the five-year review cycle. The SA has limited staff to conduct Administrative Reviews during the school year 2021-2022 and currently has several vacancies. Due to staff shortages and the training time needed for new team members the SA would find it very challenging to conduct the necessary number of reviews within the remaining three-year time frame.

SFAs not only had a large administrative burden by transitioning to SSO at the start of school year 2021-2022 but also are experiencing unprecedented supply chain disruptions and labor shortages. These supply chain disruptions and labor shortages are significantly impacting the operation of local program operators. SFAs across Iowa are spending a considerable amount of time ordering food and supply items, managing substitutions and evaluating inventory. SFAs have reported that the supply chain disruptions have increased over the past 4 weeks and have caused directors and managers to spend many hours revising menus and sourcing food and supplies.

Due to the severe labor shortages SFAs are experiencing vacant positions at all levels in the school food service department. Both large and small SFAs have reported a shortage of personnel. Two of Iowa's large SFAs have reported 50 to 100 vacant positions. Some directors are working in food production, accepting deliveries, putting away stock, serving meals to children and assisting with dishwashing due to the lack of staff.

Preparing for and participating in an Administrative Review during this challenging year will cause undue hardship on the SFAs already struggling to ensure children receive a nutritious meal.

Goal:

The goal of this waiver is to address these challenges by designating SY 2021- 2022 as an administrative review gap year for NSLP/SSO to alleviate the administrative burden for both the SFAs and SA. The SSO administrative reviews that were scheduled but not started will be moved to SY 2022-2023. The SSO administrative reviews that were scheduled for a November 2021 AR and the SFA has submitted the required review documents will be completed, if requested by the SFA. No other administrative reviews will be conducted for NSLP/SSO and this gap year will include reviews for the School Breakfast Program, Special Milk Program, Afterschool Snack Program, Fresh Fruit and Vegetable Program, Food Service Management Companies and for SFAs participating in the CACFP At-Risk Program. Year 2 of the AR cycle will be in SY 2022-2023 essentially moving the five-year review cycle to a seven-year review cycle.

The goal is also to provide the most appropriate and effective oversight in the most efficient manner and to assist SFAs in the operation of the NSLP/SSO so they can continue participation while maintaining integrity.

Expected outcomes:

This waiver will significantly decrease administrative burden and allow for efficient and effective oversight of program operations. No change will need to be made to current technology systems as a result of this waiver.

Child and Adult Care Food Program (CACFP):

Challenges:

As of September, 592 child care and 18 adult care center-based organizations and 3 emergency shelters participated in CACFP. The number of center sponsors is 76. Additionally, as of October 1, 2021, 17 day care home sponsors have oversight of approximately 1,430 day care homes. Through the COVID-19 pandemic, child and adult care centers and home providers have had to change their processes, procedures and hours/days of operation; close temporarily to respond to an outbreak or exposure; or, unfortunately, close operations permanently.

Several factors may interfere with the SA's ability to meet the required number of reviews. These include, but may not be limited to the unpredictability of CACFP organization closures; center labor/staff shortages that can lead to slow and/or incomplete responses to requests for review documents and corrective action; and the need for technical assistance in lieu of a review that is often only discovered once a review is attempted and partially underway. These events may become known late in the fiscal year where there is insufficient time to adapt and ensure completion of a review. SA staff time to complete both an extensive TA and full review in the same organization during the same fiscal year is also limited.

It is very burdensome for organizations to gather, scan and upload or email the volume of documents normally required on a review. They often miss sending documents and it is time consuming for SA consultants to organize, review and follow up on these.

It is difficult for the State agency and center and home sponsors to conduct unannounced reviews and mealtime visits remotely. Staff may not respond to unexpected phone calls for valid reasons related to COVID that have exacerbated the already challenging nature of the child care business related to staff retention, potential unpredictable child attendance and DHS requirements to stay in ratio. The ability to conduct meal observation is dependent on the availability and reliability of technology available at the site and staff to facilitate the observation.

Goals:

1. Reduce the administrative and operational burden faced by child and adult care centers, home sponsors and home providers, and the SA. Reviews will be either conducted in FY 2021-2022 or moved to FY 2022-2023, rather than skipped whenever possible.
2. Provide the most appropriate and effective oversight in the most efficient manner.
3. Assist organizations in the operation of the CACFP so they can continue participation while maintaining integrity.

Describe effective oversight measures the State agency will implement to ensure Program integrity, identify any misuse of Federal funds, and identify fraudulent activities.

SA Review of Center-based Organizations:

- When determining priorities, reviews will be targeted based on time since the last review, staff turnover of the person responsible for the CACFP at the center, SA consultant recommendation, complaints, and problems identified on the last review or past serious deficiency.
- Desk reviews will continue to be conducted as needed that include virtual mealtime observations when feasible. A policy has been developed that specifies detailed procedures SA consultants follow (such as a reduced number of certain records to be reviewed), for consistency, which has been and will continue to be refined to meet the challenges as they arise in keeping with the goal to provide effective oversight.

- Site reviews at center sponsors will be announced and may be combined with the administrative review.
- Meal observations will be completed when feasible.
- Organizations that do not follow through with the desk review process are contacted to identify and evaluate any extenuating circumstances, and provide technical assistance if possible. If the organization is operating and there are reasonable extenuating circumstances, the review is postponed if needed.
- Organizations that have not submitted claims are routinely monitored and offered assistance. Organizations that haven't claimed in over a year that wish to resume participation are required to complete training and receive a pre-approval visit.
- Every effort will be made to maintain the three-year review cycle and the review of 33.3% of organizations, and a review every three years, in FY 2021-2022, but recognize it may not be possible due to circumstances beyond the SA and organization's control.

SA Review of Home Sponsor Organizations:

- The Iowa SA requests a waiver to adjust/delay home sponsor organization reviews [7 CFR 226.6(m)(6)(ii)]. Every effort will be made to conduct home sponsor organization reviews according to the two-year or three-year requirement stated in CACFP regulations unless circumstances related to the COVID-19 pandemic prevent the completion of scheduled reviews. Adjustments will be based on previous AR dates, number of homes currently sponsored, new staff, and previous AR findings.
- All home sponsor organization ARs will be completed virtually during FY 2021-2022 due to COVID-19, or on-site if agreed upon by the home sponsor organization and the SA consultant(s).
- [7 CFR 226.6(m)(3)] The number of documents reviewed during on-site home sponsor ARs is massive. Prior to the virtual review, the SA consultant will request a representational reduced number of documents to be submitted into the SA web-based data system. Additional documents may be requested if the SA consultant deems it necessary. The AR findings are to uphold the integrity and viability of home sponsor organizations. Corrective action plans will be required as needed for sponsors to update policies and procedures in order to comply with CACFP requirements.
- The Iowa SA requests a waiver to adjust/delay home provider reviews [7 CFR 226.6(m)(4)]. Home provider reviews will be scheduled prior to the sponsor AR unless there are restrictions or other barriers from the COVID-19 pandemic. The number of homes selected for review by the SA will be reduced but will be proportional to the number of Tier 1 (and Tier 2 homes for reviews completed after July 1, 2022). Other criteria used to select homes includes total reimbursement received, length of time in CACFP, any previous seriously deficient findings, etc. The SA home reviews will be completed virtually (or other use of technology) with the provider and sponsor if possible during the COVID-19 pandemic. As schedules permit, meal observations will be included.
- [7 CFR 226.6(m)(4)] The Iowa SA requests to waive the requirement of the SA to complete the 5-day reconciliation for every provider included in the SA review process. This process takes an inordinate amount of time to complete the paperwork with no findings.

Center Sponsor Monitoring Reviews of Sites

- Centers sponsors may complete site monitoring reviews as desk reviews. The Iowa SA is requesting unannounced site reviews to be waived during FY 2021-2022, as well as meal observations due to the challenges cited above. Center sponsors are required to complete

most of the other review elements during monitoring reviews. The SA encourages center sponsors to complete meal observations in FY 2021-2022 where possible.

- We also request that the number of reviews be reduced to two since sites may close unexpectedly and staffing of employees who are trained and available to conduct the reviews can be unpredictable.

Home Sponsor Organization Reviews of Providers

- [7 CFR 226.16(d)(4)(iii)(A, B, D)] Home sponsor organizations are completing home monitoring reviews virtually (or other methods depending on the provider's available technology). The Iowa SA is requesting unannounced home reviews to be waived during FY 2021-2022, as well as unannounced meal observations. It is difficult to have home reviews unannounced because of the unpredictability of sponsor staffing and the provider's child care business during the continued COVID-19 pandemic. The SA does highly encourage home sponsors to complete one meal observation for each provider during FY 2021-2022. The observation may be dependent on the availability and reliability of the provider's technology. Home Sponsors are to complete the required review elements during monitoring reviews.
- [7CFR 226.16(d)(4)(iii)(C)] Iowa SA requests a waiver to the requirement stating at least one review must be made during each new facility's first four weeks of Program operations, due to the unpredictability of sponsor staffing and the provider's child care business during the continued COVID-19 pandemic.

Specify training and technical assistance measures the State agency will use to assist Program operators and ensure that Program requirements are met.

Centers

- To ensure organizations receive current information, communications will continue through regular emailed CACFP updates, webinars and technical assistance via phone, email and virtual meetings. An extensive variety of online training opportunities that cover all aspects of CACFP operation are available 24/7 on the Iowa Learning Online Professional Development Website, CACFP Resources site and Department of Education website.

Home Sponsor Organizations

- Technical assistance, home sponsor memos, and virtual training events will be planned by the Iowa SA for home sponsors during FY 2021-2022 to maintain contact with sponsors, and provide guidance to ensure compliance with CACFP regulations and integrity.
- Sponsor reported administrative costs are monitored by the SA during the FY.

Expected Outcomes:

This waiver will decrease the administrative burden for the State agency and CACFP participants and allow for efficient and effective oversight of program operations. No change will need to be made to current technology systems as a result of this waiver.

Strategies to minimize duplicative Program oversight activities (NSLP/SSO and CACFP)

- Careful review of SSO application submission to identify potential areas of duplication within a sponsor organization or between sponsors in a similar community.
- Ongoing communication between SA consultants regarding program sponsors and operations across the state.

- Ongoing communication with program sponsors about program requirements and strategies to prevent duplication.
- Provision of resources to sponsors to utilize in communication with families.

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

National School Lunch Program (NSLP) and Seamless Summer Option (SSO):

- 7 CFR 210.18(c) Timing of administrative reviews and cycle.
- 7 CFR 210.19(a)(5) Food Service Management Company (FSMC) review cycle requirements
- 7 CFR 210.8(a)(1) & 220.11(d)(1) SFA reviews by February 1.
- 7 CFR 210.9 (c)(7) Afterschool care reviews.

Child and Adult Care Food Program (CACFP):

Center and home programs

- 7 CFR 226.6(m)(3) Review content:
 - (i) Recordkeeping [including all records listed at 7 CFR 226.15(e)]
 - (vi) Compliance with the requirements for annual updating of enrollment forms;
 - (vii) Sponsored center sites and independent centers, observation of a meal service (virtual encouraged).
 - (x) If a sponsoring organization, implementation of a household contact system
- 7 CFR 226.6(m)(4) Review of sponsored facilities.
- 7 CFR 226.6(m)(6) Frequency and number of required institution reviews (waive unannounced). Annually review at least 33.3% of all institutions according to the schedule:
 - (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;
 - (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; and
 - (iii) Review new institutions that are sponsoring organization of five or more facilities within the first 90 days of Program operations.

CACFP sponsoring organizations:

- 7 CFR 226.16(d)(4)(i) Reviews that assess whether the facility has corrected problems noted on the previous review(s) and an assessment of the facility's compliance with:
 - (F) The annual updating and content of enrollment forms (if the facility is required to have enrollment forms on file, as specified in §226.15(e)(2) and 226.15(e)(3)).

- 7 CFR 226.16(d)(4)(iii) Frequency and type of required facility reviews. Review each facility three times each year, unless averaging. In addition:
 - (A) At least two of the three reviews must be unannounced;
 - (B) At least one unannounced review must include observation of a meal service;
 - (C) At least one review must be made during each new facility's first four weeks of Program operations; and
 - (D) Not more than six months may elapse between reviews.

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

Specify the oversight measures (e.g. webinars, conference calls, onsite visits, etc.) the State agency has found effective and those that will be implemented to ensure Program integrity, identify any misuse of Federal funds, and identify fraudulent activities.

National School Lunch Program (NSLP)/Seamless Summer Option (SSO):

Technical assistance will be provided to SFAs participating in the SSO/NSLP through a variety of methods, including but not limited to, email communications, monthly webinars, recorded webcasts on key subject areas, regional school food service director meetings and one-on-one technical assistance with a SA consultant. The SA will also continue to conduct regularly scheduled meetings/training for new food service directors.

The flexibilities provided through the USDA Nationwide waivers and this SA waiver will allow the SA consultants to focus their time providing technical assistance. SFAs operating the NSLP or SSO will be prioritized for TA based on factors, determined by the SA, including but not limited to new food service directors or authorized representatives, late claims, last Administrative Reviews, etc.

SFAs that operate SSO will be monitored to ensure compliance with program regulations such as verification and food safety inspections.

The SA application and claims system, IowaCNP, has edit checks in the system to ensure claims align with the program operations that have been approved in the organization and site applications. Claims will be periodically reviewed to ensure SFAs are claiming meals under the appropriate program and number of days that meals are served. Trends in claim reimbursement will be monitored by SA consultants.

No change will need to be made to current technology systems as a result of this waiver.

This waiver will significantly decrease administrative burden and allow for efficient and effective oversight of program operations.

Child and Adult Care Food Program (CACFP)

The SA will continue to conduct reviews through desk audits and virtually but will determine if the review should be delayed to the next FY if organization situations warrant it. Continued efforts to provide technical assistance and on-line training will be provided as needed and requested to help participating organizations.

CACFP claims will continue to be monitored by SA staff. The SA's online program has edit checks to prevent errors in submitting applications (organization and site), reporting meals claimed for centers and home providers, as well as an edit check to prevent home sponsor organizations from submitting administrative costs if the budget line has not been approved. CACFP policies and procedures will continue to be refined to ensure program compliance and integrity.

No change will need to be made to current technology systems as a result of this waiver.

This waiver will significantly decrease administrative burden allowing for efficient and effective oversight of program operations to maintain integrity.

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]:

No barriers have been identified.

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

No anticipated challenges have been identified.

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 requested waiver does not impact the overall cost of the program to the State or Federal government.

10. Anticipated waiver implementation date and time period:

This waiver will be implemented immediately upon receiving approval and continue through June 30, 2022 for NSLP/SSO and through September 30, 2022 for CACFP. The SA will complete the NSLP/SSO ARs that were scheduled in November 2021 for the SFAs that had submitted the documents and requested the SA conduct the AR.

11. Proposed monitoring and review procedures:

The SA will continue to carry out normal SA monitoring using in-person, desk and virtual reviews for CACFP organizations, if feasible. Participating organizations found to have noncompliance issues as related to this waiver will work with the SA on an individualized corrective action plan. The SA is requesting an Administrative Review (AR) gap year for SFAs operating SBP/NSLP and SSO. The NSLP AR cycle will resume in 2022-2023.

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

No later than December 31, 2022, the Department will report to FNS the following:

- Listing of resources developed, trainings and webinars conducted, and regional meetings held
- Number of CACFP Administrative Reviews conducted

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

<https://educateiowa.gov/pk-12/nutrition-programs/child-and-adult-care-food-program/cacfp-covid-19-waivers-and-flexibilities>

<https://educateiowa.gov/pk-12/nutrition-programs/school-meals-0>

14. Signature and title of requesting official:

A handwritten signature in black ink that reads "Kala Shipley". The signature is written in a cursive style with a large, prominent "K" and "S".

Title: Kala Shipley, Bureau Chief

Requesting official's email address for transmission of response: kala.shipley@iowa.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:

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

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To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint), (AD-3027) found online at: <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint>, any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call 866-632-9992. Submit your completed form or letter to USDA by:

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
3. Email: program.intake@usda.gov

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