

**CHILD NUTRITION PROGRAM STATE WAIVER
REQUEST:**

**Flexibility for the Administrative Review Cycle
Requirement SP 12-2019**

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.

In this waiver request, the Massachusetts Department of Elementary and Secondary Education's (DESE) Office for Food and Nutrition Programs (FNP) is seeking a waiver to 7 CFR 210.19 to modify the existing 3-year Administrative Review (AR) Cycle for reviewing School Food Authorities (SFAs) utilizing a Food Service Management Company (FSMC) contract to a 4-year cycle under the National School Lunch Program (NSLP).

The State Agency (SA) is providing this notice to the public regarding the proposed waiver. Notification from USDA Regional Office regarding the status of the waiver will be posted on our website.

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

MA Department of Elementary and Secondary Education (DESE)
Office for Food and Nutrition Programs (FNP)
75 Pleasant St., Malden, MA, 02148
Robert M. Leshin, Director
rleshin@doe.mass.edu
781-338-6477

2. Region: Northeast (NERO)

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

This waiver would impact current NSLP sponsors which includes public, private and residential child care institutions (RCCIs). Additionally, this waiver may encourage LEAs as well as those that have terminated to participate in NSLP if unnecessary burdens and inefficiencies were minimized.

Annual training is provided for NSLP sponsors and mandatory training is required for new LEAs seeking to participate in NSLP; confirmation of training attendance must be received by FNP as part of the NSLP pre-approval process. This comprehensive training addresses all aspects of program operations to ensure thorough understanding of program regulations. MA DESE FNP staff are responsible for reviewing all new site and renewal applications as part of the annual application



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]:

MA DESE FNP seeks to provide more Targeted Review Follow-Up visits, Technical Assistance Sessions to and provide more training opportunities for LEAs with this waiver request. With the current resource and time constraints due to the 3-year cycle, there are limited opportunities for following up with LEAs on-site with technical assistance and one-on-one training.

To minimize unnecessary burden and inefficiencies hindering effective program management without compromising program integrity, MA DESE FNP is seeking a waiver to lessen the frequency of the NSLP AR across the Commonwealth from a 3-year cycle to a 4-year cycle. The time constraints in preparation for both the on-site and off-site sections of the Administrative Review, in addition to the administrative burden, has resulted in an increased need for improved customer service as MA is committed to ensure program operators run exceptional school meals programs.

Approval of the waiver request will enable MA DESE FNP to offer Targeted Review Follow-Up visits, Technical Assistance Sessions, and trainings targeted at repeat Corrective Action Plan (CAP) findings. MA LEAs are intimately familiar with the importance of technical assistance in their programs and have come to MA DESE FNP looking for assistance or support in finding ways to attend trainings and receive one-on-one trainings.

FNP understands that the AR was established to ensure a comprehensive evaluation of school meals programs by State Agencies of LEAs participating in the NSLP and SBP. However, the comprehensive AR administrative procedures have limitations and can result in SA staff fully focused on caseload productivity and unable to provide follow up technical assistance especially for LEAs that need it. Upon approval, the Targeted Review Follow-Up visits, Technical Assistance Sessions and training opportunities would have a significant impact on the school food service operations across the state.

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

MA DESE FNP is seeking a waiver to 7 CFR 210.19 to allow for an additional year in the Administrative Review from a 3-year cycle to a 4-year cycle.

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

Targeted Review Follow-Up visits, Technical Assistance Sessions and training:

MA DESE FNP would release a memo to all LEAs with information on what the waiver entails, including a comprehensive list of schools chosen for an Administrative Review, a Targeted Review Follow-Up or a Technical Assistance Session. This operational plan would be sent out at the start of the school year to help LEAs plan for the arrival of the SA. If an LEA was to be



selected for an on-site Targeted Review Follow-Up visit or Technical Assistance Sessions, they would be made aware of program assistance and guidance.

Organizing more structured *Targeted Review Follow-Up* visits to sponsors with severe Corrective Action findings and high fiscal action amounts would include re-visiting the sponsor to ensure that the corrective actions have been implemented to maintain program integrity. School nutrition directors would have the opportunity to request additional items to be evaluated with guidance if desired. If additional findings were noted, a new Corrective Action Plan (CAP) would be generated, with fiscal action taken.

Technical Assistance Sessions could include one specific, or several topics and be made at the request of a SA program reviewer and/or school nutrition director. These sessions could be done via conference call or on-site and could utilize the USDA ART II Grant funded “Making it Count” online learning modules.

FNP will release a memo to all NSLP LEAs directing them to resources and training opportunities which would provide a detailed overview on how this waiver would affect programs. Additionally, FNP would train SA staff, including program monitors, on this waiver to ensure the office has consistent message and can answer questions accurately.

Technology and recordkeeping: The online Security Portal requires that NSLP LEAs must document how they are responding to their corrective action items.

Currently, as part of the AR, the on-site and off-site questions are built into the security portal for both the sponsor and the SA to answer and comment. If a finding is noted, the CAP and/or fiscal action will be generated. This documentation already exists and aids in transparent communication between the LEA and the SA.

To avoid confusion with Targeted Review Follow-Up visits, only the sections as noted in the previous CAP will be built out in the portal. This will allow the SA to re-address the previous findings when on site. As the SA follows up with the previous findings, and provides technical assistance, it can be documented in the respective sections of the Targeted Review Follow-Up.

For the purpose of data collection and recordkeeping, FNP will build in edit checks to ensure that the forms need to be completed and approved in order to query. This will enable a report to be run at the end of each school year so that FNP can understand common findings to aid in future training sessions, and to deem future LEAs to designate for a Targeted Review Follow-Up visit.

Monitoring: LEAs would receive the list of schools selected for an AR, Targeted Review Follow-Up visit, or Technical Assistance Session prior to the start of the school year with training opportunities. LEAs will be informed about the new AR process and content during planned AR information sessions conducted by SA staff. During an AR, SA staff would continue with traditional compliance



monitoring per the AR guidance manual. Targeted Review Follow-Up visits would entail monitoring previous corrective action items and providing on site technical assistance. Documentation on previous CAP items and new findings would be housed in the security portal. Consultation Technical Assistance Sessions would additionally be documented in the security portal.

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]:

To help LEAs who are trying to identify possible barriers to program integrity, we offer a variety of trainings throughout the year. Our in-person and webinar series include the reviewing and training on both performance standards 1 and 2 as well as general program compliance. Additionally in scheduling ARs, SA program reviewers have factored in additional days on-site, when feasible, to provide basic technical assistance to the sponsor.

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

MA DESE FNP does not anticipate any challenges with the implementation of this waiver. However, timing will have a significant impact on the rate of rollout for the above-mentioned materials and resources. Depending on when the waiver is approved, MA DESE FNP will have to work efficiently to schedule, promote, and hold training events and materials. In order to reduce this burden, MA DESE FNP will develop materials and identify training dates in advance of hearing a response from FNS so that the office can begin implementation immediately upon approval. The MA DESE FNP office will disperse the message out early and reiterate it often, as well as posting it on our public website, and in our Security Portal's document library.

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]:

This waiver request will not increase cost of the Program to the Federal Government. Program administration and operations will remain committed to oversight and compliance. Program reimbursement will continue to be based on total number of meals served to eligible participants by the LEA.

10. Anticipated waiver implementation date and time period:

MA DESE is intending to start implementation for School Year 2019-2020. It is anticipated that the School Year 2019-2020 AR operational plan will be released ("rolled out") in early September 2019 and the training will proceed shortly thereafter. The anticipation would be that the waiver would be approved, and training developed, distributed, and available prior to the roll out of the application.

11. Proposed monitoring and review procedures:



All sponsors would receive a memorandum with the list of schools selected for an Administrative Review, Targeted Review Follow-Up or Technical Assistance Session. This memo would also indicate upcoming available training dates which is posted on the MA DESE FNP public facing website and on the security portal. Sponsors would be trained by office staff on the structure of and contents covered in the Administrative Review, Targeted Review Follow-Up and Technical Assistance Session.

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

MA DESE FNP will provide a comprehensive report on the impact of this waiver extension on NSLP LEAs. This report, which will pull data directly from the online Security Portal will identify the number of corrective action items. Additionally, MA DESE FNP will provide surveys to receive feedback in regards to the additional training being offered. FNP will use the feedback as a tool in planning and creating future training opportunities. Lastly, AR results will continue to be reported in the FNS-640.

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]:

14. Signature and title of requesting official :

Title:

Requesting official’s email address for transmission of response:

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: