



United States  
Department of  
Agriculture

Food and  
Nutrition  
Service

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Alexandria, VA  
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DATE: May 30, 2013

MEMO CODE: SP 42-2013

SUBJECT: School Nutrition Programs Updated Administrative Review Process

TO: Regional Directors  
Special Nutrition Programs  
All Regions

State Directors  
Child Nutrition Programs  
All States

Program integrity is an essential aspect of administering the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). State agencies contribute to Program integrity by conducting administrative reviews of school food authorities (SFA) in accordance with regulations at 7 CFR 210.18, to ensure NSLP and SBP requirements are met. As a result of recent changes to the Richard B. Russell National School Lunch Act (NSLA), 42 USC 1751 et. seq., the Food and Nutrition Service (FNS) developed updated and streamlined administrative review procedures. This memorandum notifies State agencies of the option to continue conducting administrative reviews of SFAs in accordance with the review process set forth in 7 CFR 210.18, and the corresponding *Coordinated Review Effort Procedures Manual*, or to seek a waiver of the regulatory review procedures pursuant to section 12(l) of the NSLA, 42 USC 1760(l), and conduct administrative reviews in accordance with the updated administrative review process discussed below. Procedures for seeking a waiver and the terms and conditions associated with the waiver are described below.

### **Background**

Section 207 of the Healthy, Hunger-Free Kids Act of 2010 amended section 22 of the NSLA, 42 USC 1769c, to require implementation of a unified accountability system designed to ensure that SFAs comply with NSLP and SBP requirements. In response, FNS, in conjunction with State agency partners, conducted a rigorous assessment of the review requirements in 7 CFR 210.18, *Administrative reviews*, and other guidance including the *Coordinated Review Effort Procedures Manual*. This assessment led FNS to develop an updated and streamlined administrative review process, which is outlined in the *Administrative Review Guidance Manual* and accompanying forms, workbooks, etc. issued by FNS on March 7, 2013. The Guidance is found at <http://www.fns.usda.gov/cnd/guidance/adminreview.htm>.

In addition, FNS has conducted five national trainings on the updated administrative review process, and will continue to provide technical assistance throughout the coming school year.

### **Overview of the Updated Administrative Review**

The updated administrative review process, as described in the *Administrative Review Guidance Manual*, provides a comprehensive evaluation of school nutrition programs. While the administrative review continues to cover critical and general areas, there are notable differences in the scope of review and fiscal action procedures. In addition, follow-up review thresholds have been eliminated; State agencies may conduct follow-up reviews at their discretion.

State agencies receiving a waiver to follow the updated administrative review process would be provided a waiver to portions of the Performance Standard 1 and Performance Standard 2 scope of review requirements, found at §210.18(g)(1)(i) and (g)(2)(iv). In addition, approved State agencies would be provided a waiver to the follow-up review requirements, found at 7 CFR 210.18(i). There are several associated requirements throughout 7 CFR Parts 210 and 220 which would also be waived. All requirements that would be waived are identified in Attachment 1.

FNS intends to issue a proposed administrative review regulation in School Year 2013-2014. The proposed rule would solicit comments on a number of proposed changes to the pertinent sections of 7 CFR Parts 210 and 220. The operational experience obtained from State agencies receiving a waiver will be useful as State agencies comment on the proposed administrative review regulation. Subsequently, a final rule establishing one unified review system would be promulgated, at which time, all State agencies would be required to follow the finalized provisions.

### **Procedures for Seeking a Waiver**

In accordance with the Secretary's waiver authority in section 12(l) of the NSLA, 42 USC 1760(l), State agencies seeking a waiver of Program regulations in order to use the updated, streamlined administrative review process must submit a request for waiver in writing to the FNS Regional Office. FNS Regional Offices will forward all such waiver requests to FNS Headquarters for review and approval. Each waiver request must include statements specifying that the State agency would:

- comply with all of the procedures outlined in the *Administrative Review Guidance Manual* and associated tools, workbooks, forms, etc. issued March 7, 2013, and any updates to the manual and associated forms, workbooks, checklists, etc. issued by FNS.
- communicate operational issues, problems, and suggested improvements to the updated administrative review process to the FNS Regional Office.
- report administrative review data through the FNS-640 or as otherwise directed by FNS.
- notify the FNS Regional Office in advance if the State agency seeks to revert to the administrative review process under the Coordinated Review Effort for subsequent administrative reviews.

- provide training and technical assistance to SFAs on the new administrative review process prior to conducting administrative reviews. It is important that SFAs have an understanding of the performance standards and measures the State agency will use to evaluate SFA performance.

State agencies seeking a waiver may use the prototype waiver request in Attachment 2.

#### **Duration of the Waiver**

FNS will review State agency requests for a waiver taking into consideration past performance. If approved, FNS will provide oversight of the State agency's administrative review activity through management evaluations, data collection, audits and through other means. State agencies may continue using the process outlined in the *Administrative Review Guidance Manual* until such time as a final administrative review regulation is promulgated or as otherwise determined by FNS.

#### **Consistency**

State agencies must follow either all of the administrative review process currently found at 7 CFR 210.18 (Coordinated Review Effort) or all of the process set forth in the updated *Administrative Review Guidance Manual* as authorized under an approved waiver. The administrative review processes identified under Coordinated Review Effort and under the updated Administrative Review are not interchangeable.

#### **Summary**

FNS is looking forward to working with State agencies. We expect the operational experience gained under the waiver will inform the regulatory process and result in a unified review system that ensures school nutrition program integrity in the most efficient and effective manner possible.

**Original Signed**

Cynthia Long  
Director  
Child Nutrition Division  
Attachments

<b>Attachment 1</b>		
<b>Waiver for State Agencies approved to follow the <i>Administrative Review Guidance Manual</i></b>		
<b>7 CFR</b>	<b>Current Requirement</b>	<b>New Procedures</b>
§210.10(h)	State agencies are required to conduct a weighted nutrient analysis of the meals offered to each age grade group in one school selected for review.	At a minimum, State agencies are required to conduct a weighted nutrient analysis of the meals offered to each age grade group in a school selected for review that is determined to be at high risk of dietary specification violations.
§210.18(c)(3), (d)(2)	State agencies are required to conduct follow-up reviews within specified timeframes and must notify FNS of the names of large SFAs in need of a follow up review.	State agencies are not required to conduct follow-up reviews, thus making the reporting requirement unnecessary.
§210.18(g)(1)(i) (A) and (B)	<i>For each reviewed school</i> , State agencies are required to determine the number of children eligible for free, reduced price and paid lunches for the review period and evaluate the system for issuing benefits.	<i>For the local educational agency</i> , State agencies are required to determine the number of children eligible for free, reduced price, and paid lunches for the review period and evaluate the system for issuing benefits.
§210.18(g)(2)(iii)	State agencies must review menu and production records for a minimum of five days.	State agencies must review menus and production records for a school week, if the review reveals problems with components or quantities, the State agency must expand the review to, at a minimum, the entire review period.
§210.18(g)(2)(iv)	State agencies are required to conduct a weighted nutrient analysis of the meals offered to each age grade group in one school selected for review.	At a minimum, State agencies are required to conduct a weighted nutrient analysis of the meals offered to each age grade group in a school selected for review that is determined to be at high risk of dietary specification violations.
§210.18(i)	State agencies must conduct follow-up reviews of all SFAs found to have critical area violations in excess of any one of the review thresholds.	Follow-up reviews are not required. Review thresholds are not established.
§210.18(l)	State agencies are required to withhold program payments for SFAs with uncorrected critical area violations in excess of review thresholds.	While §210.18(l) is waived, §210.24 continues to require State agencies to withhold program payments to any SFA which has failed to comply with program requirements.
§210.18(o); §210.20(a)(5)	State agencies are required to report to FNS the names of those large SFAs exceeding a critical area review threshold.	No comparable provision.
§210.18(p) §210.20(b)(7)	State agencies are required to maintain records regarding its criteria for selecting schools for follow-up reviews.	No comparable provision.
§220.8(h)	State agencies are required to conduct a weighted nutrient analysis of the meals offered to each age grade group in one school selected for review.	At a minimum, State agencies are required to conduct a weighted nutrient analysis of the meals offered to each age grade group in a school selected for review that is determined to be at high risk of dietary specification violations.

## Attachment 2

**Date:** (insert)  
**Subject:** Administrative Review Waiver Request  
**To:** FNS Regional Office  
**From:** (insert)

Beginning School Year 2013-2014, insert name of State agency would like to conduct administrative reviews of the School Nutrition Programs in accordance with the process set forth in the *Administrative Review Guidance Manual*, issued March 7, 2013, and any updates. We are requesting a waiver of the administrative review requirements outlined in FNS' memorandum, *School Nutrition Programs Updated Administrative Review Process*, issued May 30, 2013.

The *Administrative Review Guidance Manual* and the corresponding waiver are expected to provide for a more comprehensive evaluation of School Nutrition Programs using an updated and streamlined process to effect the State's oversight and monitoring responsibilities. The efficiencies in the review process are expected to offset any costs associated with modifications to the scope of review, as such, the waiver is not expected to increase the overall cost to the Federal government.

If approved, the State agency agrees to:

- Comply with all of the procedures outlined in the *Administrative Review Guidance Manual* and associated tools, workbooks, forms, etc. issued March 7, 2013, and any updates to the manual and associated forms, workbooks, checklists, etc. issued by FNS.
- Communicate operational issues, problems, and suggested improvements to the updated administrative review process to the FNS Regional Office.
- Report administrative review data through the FNS-640 or as otherwise directed by FNS.
- Notify the FNS Regional Office in advance if the State agency seeks to revert to the administrative review process under the Coordinated Review Effort for subsequent administrative reviews.
- Provide training and technical assistance to SFA on the new administrative review procedures prior to conducting administrative reviews. It is important that SFAs have an understanding of the performance standards and measures the State agency will use to evaluate performance.

We understand that, if approved, FNS will provide oversight of the State agency's administrative review activity through management evaluations, data collection, audits, and through other means. Further, we understand that we may continue using the process outlined in the *Administrative Review Guidance Manual* until such time as a final administrative review regulation is promulgated or as otherwise determined by FNS.

Your approval is requested.