



**United States
Department of
Agriculture**

Food and
Nutrition
Service

3101 Park
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Alexandria, VA
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DATE: September 11, 2015

MEMO CODE: SP 44-2015

SUBJECT: Administrative Reviews in School Year (SY) 2015-2016

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.

This memorandum provides guidance to State agencies on conducting administrative reviews in SY 2015-2016. In SY 2015-2016, State agencies have the option to continue conducting administrative reviews of SFAs in accordance with the review processes set forth in 7 CFR 210.18, and the corresponding Coordinated Review Effort Procedures Manual (CRE), or to seek a waiver of the regulatory review procedures pursuant in section 12(1) of the NSLA, 42 USC 1760(1), and conduct administrative reviews in accordance with the updated administrative review process outlined in the Administrative Review Manual.

State agencies that received a waiver for SY 2013-2014 or SY 2014-2015 that wish to continue using the updated administrative review process in SY 2015-2016 must notify their Regional Office. These State agencies would continue to operate under the same terms and conditions as in SY 2013-2014 or SY 2014-2015, and may continue using the process outlined in the Administrative Review Manual until such time as a final administrative review regulation is promulgated or as otherwise determined by Food and Nutrition Service (FNS). These State agencies will not be required to submit a new waiver request. State agencies that did not request a waiver in SY 2013-2014 or SY 2014-2015, and wish to do so in SY 2015-2016, should follow the procedures below. All requirements that would be waived are identified in Attachment 1.

State agencies continuing to use the Coordinated Review Effort process for reviews should use the review procedures and forms outlined in memo SP 04-2015, SY 2014-2015 Coordinated Review Effort Procedures Manual, Forms and Instructions. Additional updates for reviews conducted through the CRE process for SY 2015-2016, including the monitoring of new professional standards regulations outlined in 7 CFR 210.30, will be forthcoming and must be incorporated once released.

FNS has issued a proposed administrative review regulation and has received comments on proposed changes to the pertinent sections of 7 CFR Parts 210 and 220. Subsequently, a final rule establishing one unified review system will be promulgated, after which 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(1) of the NSLA, 42 USC 1760(1), State agencies seeking a waiver of Program regulations in order to use the updated 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 the FNS National Office for review and approval. Each waiver request must include statements specifying that the State agency will:

- Comply with all of the procedures outlined in the Administrative Review Manual and associated tools, workbooks, forms, 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; and
- Provide technical assistance to SFAs on the updated administrative review process prior to conducting administrative reviews. It is important that SFAs have an understanding of the performance 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 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 (CRE) or all of the process set forth in the updated Administrative Review 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 looks forward to continued collaboration with State agencies. We expect the operational experience gained under the administrative review 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.

State agencies are reminded to distribute this memo to Program operators immediately. SFAs should contact their State agencies for additional information. State agencies may direct any questions concerning this guidance to the appropriate FNS Regional office.

Sincerely,



for Sarah E. Smith-Holmes
Division Director
Program Monitoring and Operational Support Division

Attachments

Attachment 1

**Waiver for State Agencies approved
to follow the *Administrative Review Manual***

7 CFR	Current Requirement	New Procedures
§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)

In School Year 2015-2016, 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 Manual. We are requesting a waiver of the administrative review requirements as outlined in FNS memorandum SP 44-2015, Administrative Reviews in School Year (SY) 2015-2016, issued September 11, 2015.

The Administrative Review Manual and the corresponding waiver are expected to provide a more comprehensive evaluation of School Nutrition Programs using an updated process to affect the State's oversight and monitoring responsibilities. The efficiencies in the review process are expected to offset any costs associated with modifications of 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, 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 technical assistance to SFAs on the updated administrative review process prior to conducting administrative reviews. It is important that SFAs have an understanding of the performance measures the State agency will use to evaluate SFA 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 to use the process outlined in the Administrative Review Manual until such time as a final administrative review regulation is promulgated or as otherwise determined by FNS.

Your approval is requested.