



STATE OF NEW MEXICO
PUBLIC EDUCATION DEPARTMENT
300 DON GASPAR
SANTA FE, NEW MEXICO 87501-2786
Telephone (505) 827-5800
www.ped.state.nm.us

ARSENIO ROMERO, Ph.D.
DESIGNATE SECRETARY OF EDUCATION

MICHELLE LUJAN GRISHAM
GOVERNOR

CHILD NUTRITION PROGRAM
STATE WAIVER 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 Seamless Summer Program (SSO), the National School Lunch Program (NSLP), the Fresh Fruit and Vegetable Program (FFVP), 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.

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

New Mexico Public Education Department, Child Nutrition Programs
Michael Chavez, Child Nutrition Director
MichaelA.Chavez@state.nm.us 505-699-4562

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2. Region:
Southwest Regional Office

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

For the New Mexico Public Education Department (NMPED) Child Nutrition Programs experienced and approved sponsors operating the National School Lunch Program (NSLP), School Breakfast Program (SBP), Fresh Fruit and Vegetable Program (FFVP), and Seamless Summer Option (SSO), who have not received an Administrative Review of NSLP program operations in the current review cycle.

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)(iii) and 12(I)(2)(A)(iv) of the NSLA]:

Prior to COVID, NMPED was on a 3-year AR cycle. The COVID-19 pandemic significantly affected SFAs and program operations, due to significant staff shortages, supply chain issues and changing health guidance. Due to this, NMPED requested and was granted approval to change to a 5-year AR cycle. Then, Albuquerque Public Schools (APS) then made the decision to drop their charter schools for the SY23-24, which will require those charter schools to operate as separate SFAs and thus required to receive an Administrative Review (AR) in their first year of operation. The number of "new" SFAs combined with the number of SFAs still in need of an AR in the current cycle, has significantly increased the number of ARs in need of completion in SY23-24. Over thirty SFA's will be added to our overall number of schools that will be required to have an AR in their first year. This wasn't expected and has caused a considerable amount of additional work for our team. We would therefore, like to request an AR cycle waiver to give us an additional year to complete all reviews due in the 5-year cycle.

The goal of the AR cycle waiver (allowing 6yrs as opposed to 5 yrs for this cycle only) is to allow for sufficient time for NMPED to complete ARs of all participating sponsors before the end of the current cycle. NMPED aims to ensure correct and effective program management, by all participating SFAs. Newly operating sponsors (charter school) will need to receive all necessary training and technical assistance to ensure NSLP compliance and ensure access to healthy meals for New Mexico's children.

Approval of an AR Cycle Extension waiver to 6 years, will allow NMPED and sponsors to continue implementing streamlined program operations. Expectation is that the waiver will decrease the administrative burden for NMPED.

Also, the passage of Senate Bill 4 for universal free meals has greatly increased our workload within our State. We will be allocated over \$35 million for SY 23-24 to meet the requirements of this bill. The additional requirements of scratch cooking, NM grown produce and the reduction of food waste as taken additional planning for implementation when the school year begins. The approval of Senate Bill 4 does not increase the funding to hire more health educators, who provide TA and complete the ARs for the NSLP. The additional funds for Senate Bill 4 (SB4) have largely been utilized to build out a new department that will oversee the implementation of SB4.

Commented [MRF1]: For this question it would be good to explain what your current AR cycle is and would you to extend it to.
For example, you are on a 3 year cycle and you what to go to a 5 year cycle.
What year are you in of your current AR cycle?
With the cycle you are requesting how many schools will you have to review each year?

Commented [SSF2]: Recommend explicitly stating that the waiver is to extend the review cycle from the named current cycle to the named desired review cycle.

Commented [BSF3]: Does Senate Bill 4 provide more funding for staff to help offset the expense to conduct AR's, now that Senate Bill 4 passed?

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

NMPED is requesting to waive 7 CFR 210.18(c)

Timing of reviews. 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 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.

(1) Review cycle exceptions. FNS may, on an individual school food authority basis, approve written requests for 1-year extensions to the 3-year review cycle specified in paragraph (c) of this section if FNS determines this 3-year cycle requirement conflicts with efficient State agency management of the programs.

NMPED would like to request a waiver to the 5-year AR cycle requirement. Due to COVID-19 NMPED requested and received approval to go from a 3-year to a 5-year AR cycle. In SY22-23 NMPED was able to resume “normal” on-site, AR processes. Albuquerque Public Schools (APS), our largest district, then made the decision to drop their charter schools for the SY23-24, which will require those charter schools to operate as separate SFAs and thus required to receive an Administrative Review (AR) in their first year of operation. NMPED has 100+ SFAs that would require ARs for SY23-24 in order to complete the current 5-year cycle. NMPED only has the ability to contract ~15 of these reviews leaving ~95 for 5 staff to complete.

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

The AR cycle extension waiver would allow NMPED to complete all required and needed ARs for new and existing SFAs by the end of SY24-25. Due to the large number of new SFAs for the SY23-24 (our 5th cycle year), NMPED would not have sufficient staffing or time to complete all ARs and provide quality TA to SFAs in a timely manner. An extension would allow NMPED to reduce their administrative load for SY23-24 and spread it out over 2 years, so that all SFAs and ARs receive the time, feedback and assistance that is needed to operate a successful NSLP program.

Commented [LZF4]: The SA did not submit a waiver checklist to review.

Commented [CF5R4]: Yes, please list the actual regulatory requirements that NMPED is requesting to waive. 7 CFR 210.18 (c)

Commented [MRF6]: This comment doesn't address what the waiver is trying to accomplish. The changing of the AR cycle.

Commented [LZF7]: What are the alternative procedures? What are the Operational Flexibilities? Will the monitoring only be through the application process? The SA should be more descriptive in section 6 of the waiver.

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Anticipated Impact: The waivers will significantly decrease administrative burden, allow for efficient and effective oversight of program operations, and allow sponsors to meet the needs of their communities. The NMPED will continue to ensure program integrity through a thorough application approval process, technical assistance visits, administrative reviews, and training. In addition, no change will need to be made to current technology systems as a result of this waiver. Approval of this waiver will be cost neutral for NMPED.

Commented [MRF8]: This doesn't really address what the waiver is needing.

Commented [BSF9]: Maybe describe what TA and training will be provided to the SFAs since this waiver will allow for efficient and effective oversight of program operations, and allow sponsors to meet the needs of their communities.

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]:

There are currently no State level regulatory barriers related to extending the AR cycle by 1 year.

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

There are no anticipated challenges with the extension, by 1 year, of the AR cycle. NMPED's internal processes and procedures are already in place to ensure program integrity.

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]:

There is no additional cost to the program or the federal government for this waiver.

10. Anticipated waiver implementation date and time period:

The anticipated waiver implementation start date is upon approval from USDA in SY23-24 and is to remain in effect until completion of the additional cycle year, SY24-25.

Commented [MRF10]: Language about the checklist needs to be removed. It would be good to add what your AR cycle is now and what you would like to increase it to. Also list dates like the cycle will start in SY 23-24 and end in SY 26-27 for example.

11. Proposed monitoring and review procedures:

Monitoring of sponsors performance under the requested waivers will continue to follow administrative review regulations for each program. This practice will be consistent with 7 CFR 210, 215, 220, 225, and 226 review requirements.

Commented [MRF11]: This answer doesn't address the question. How will the new AR cycle help your SA with monitoring and how will it changes your SA procedures?

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

No later than September 30, 2025, NMPED will report to USDA the completion of all required ARs for the current NMPED 5-year AR cycle.

Commented [MRF12]: This answer doesn't support the question.

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]:

[Student Success & Wellness Bureau – New Mexico Public Education Department \(state.nm.us\)](https://www.nm.gov/Student-Success-Wellness-Bureau-New-Mexico-Public-Education-Department-state.nm.us)

Commented [MRF13]: I don't see this specific waiver on your website. This will be to be updated

14. Signature and title of requesting official:

DocuSigned by:
Michael Chavez 8/15/2023
Title: Director

Requesting official's email address for transmission of response:
MichaelA.Chavez@state.nm.us

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:

