



November 23, 2020

## **Kansas State Department of Education Monitoring and Oversight Plan & 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. Under Program statute and regulations, State agencies and local operators are required to conduct monitoring of the Child Nutrition Programs. [Through nationwide waivers](#), the Food and Nutrition Service has provided flexibilities to allow for off-site reviews in 2021 in order to help minimize potential exposure to the novel coronavirus (COVID-19).

The Food and Nutrition Service (FNS) has recognized the current exceptional circumstances of this public health emergency and released [COVID-19: Child Nutrition Response #59](#) Nationwide Waiver to Allow Summer Food Service Program and Seamless Summer Option Operations through June 2021. Most Program operators in Kansas are operating different programs, at different times of the year, not traditional operations. As a result, the Kansas State Department of Education (KSDE) has modified the Monitoring and Oversight Plan. KSDE has determined that there are three Federal statutory and/or regulatory requirements needed to be waived in order to provide effective and efficient oversight of Kansas Child Nutrition Program operations. KSDE believes that in addition to monitoring and oversight activities, technical assistance and training measures are essential tools in ensuring that Kansas Child Nutrition Program operators successfully operate Programs consistent with Federal regulations and have a robust plan.

Therefore, the Kansas State Department of Education Child Nutrition & Wellness team is submitting a monitoring and oversight plan and requests four specific monitoring requirements be waived. The monitoring requirements requested to be waived, justification and a proposed alternate plan for conducting effective Child Nutrition Program monitoring, oversight, technical assistance and training is detailed below.

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

Kansas State Department of Education (KSDE)  
Child Nutrition & Wellness (CNW)  
900 SW Jackson Street, Suite 251  
Topeka, KS 66612  
Cheryl S Johnson, Director  
[csjohnson@ksde.org](mailto:csjohnson@ksde.org)  
785-224-8479 (cell)

### **2. Region:**

Mountain Plains (MPRO)



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

Any Kansas approved Sponsor to operate in the National School Lunch Program, School Breakfast Program, Summer Food Service Program and/or the Child and Adult Care Food Program 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(l)(2)(A)(iii) and 12(l)(2)(A)(iv) of the NSLA]:**

Due to the current exceptional circumstances of the coronavirus public health emergency, the complexity of administering multiple Child Nutrition Programs operating concurrently, and based on data compiled since the public emergency began last March, KSDE is submitting an updated monitoring and oversight plan that includes robust technical assistance and training and the request to waive three monitoring requirements, one CACFP Review requirement and two SFSP Review requirements as detailed below. This updated plan and waiver request is necessary because most Kansas Sponsors are operating different programs in PY 2021 due to the COVID-19: Child Nutrition Response #59.

Child Nutrition Program	PY2021	PY2020*	PY 2019
NSLP	21	402	404
NSLP SSO	67	179	0
SFSP	342	342	167
CACFP	325	333	334

\*Numbers indicate Sponsors implementing NSLP through the middle of March and then transitioning to SSO and SFSP in middle March/April and then more Sponsors transitioning to SFSP in May/June/July/August/September.

**KSDE Monitoring & Oversight Plan PY2021**

**School Nutrition Program (SNP)- Administrative Reviews (AR) and Procurement Reviews**

To minimize unnecessary burden and inefficiencies hindering effective program management without compromising program integrity, KSDE CNW sought and was granted a waiver to lessen frequency of the SNP AR across the state from a 3-year cycle to a 5-year cycle. No further waivers are needed to meet regulatory requirements for the SNP AR or Procurement Reviews including Food Service Management Company Reviews.

**Monitoring and Oversight Plan for SNP Sponsors**

KSDE Child Nutrition Consultants will conduct eight Administrative Reviews of Sponsors participating in the NSLP/SBP during PY21 (RCCIs and Private Schools) and conduct 21 Food Service Management Company Reviews per the required three-year review cycle. All procurement reviews are complete until 2023, so none are required other than if risk is determined during an AR or Technical Assistance visit and then a Procurement Review would be initiated.

Program Year	# ARs
2020	130
2021	8
2022	87
2023	87
2024	87



### **Child and Adult Care Food Program**

CNW understands that program monitoring requirements were established to ensure a comprehensive evaluation of child nutrition programs by State Agencies of the Sponsors participating. However, the nationwide waiver to allow the SFSP to continue during the COVID response has resulted in 342 SFSP Sponsors for this school year. KSDE staff have been fully focused on approving waivers and providing technical assistance so that Sponsors can continue to provide meals during these unprecedented times of in-person, hybrid and remote learning and now with increasing food service staffing limitations due to positive COVID cases and/or quarantine. All KSDE CNW Consultants and staff members have been helping with the implementation of the SFSP and SSO across KS and making sure children have access to meals. This includes staff who usually focus on CACFP monitoring. KSDE utilized the Nationwide Waiver of Annual Review Requirements for State Agencies in the CACFP that waived the requirement to review 33.3 percent of institutions annually and that at least 15 percent of those total reviews being unannounced. Further complicating the monitoring plan, CACFP Child Nutrition Consultants were not able to complete some of the planned reviews for PY20 due to Child Care Center closings due to COVID during the initial COVID response this past spring and summer. Currently, due to a surge in COVID cases in Kansas, many CACFP Sponsors are being forced to close for periods of time due to illness and quarantine.

CACFP Reviews can be conducted as desk reviews but desk reviews increase the time it takes to complete a thorough review. Thus, KSDE respectfully seeks a waiver of 7 CFR 226.6(m)(6) and CFR 226.6(m)(6)(i) - Frequency and number of required institution reviews: 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 facilities. KSDEs requests the CACFP monitoring review cycle be extended for CACFP Sponsors of 1 to 100 sites to at least once every 4 years instead of once every 3 years and annually review at least 25% of all institutions.

### **Monitoring and Oversight Plan for CACFP Sponsors**

Twenty-five percent of CACFP Sponsors will be scheduled for review in PY 2021 and PY 2022 based upon the following risk criteria: review farthest out (5), serious deficiency follow-up (5), new CACFP w/ less than 5 sites (4), private for profit (3), private non-profit (2) and SFAs (1). CACFP Sponsors with more than 100 sites would continue to receive a review every 2 years per regulation and new institutions that are sponsoring organizations of five or more facilities would be reviewed within the first 90 days of Program operations.

#### **CACFP Review Plan:**

<b>Program Year</b>	<b>Sponsor w/ 1-100 Sites</b>	<b>Sponsors w/ 100+ Sites</b>	<b>% Reviewed Target</b>
2019	97	8	33%
2020	100	12	33%
2021	75	8	25%
2022	69	14	25%
2023	Return to 3-year cycle		

Assumptions:

- Stretch CACFP review cycle to 4 years due to COVID-19 (PY19, PY20, PY21, PY22)
- In PY21, review all sponsors who had a review in PY18 (except for Public SFAs (moved to PY22)), those sponsors who had FA in PY18, and new non-public school SFAs based on risk criteria noted above in narrative.
- In PY22, review all sponsors who had a review in PY19, PY18 Public SFAs, and all new Sponsors based on risk criteria noted above in the narrative.

**Summer Food Service Program**

The Kansas State Department of Education Child Nutrition & Wellness team is also seeking a waiver to 7 CFR 225.7(d)(2)(ii)(A) and (B) regarding frequency and number of required SFSP reviews, specifically (A) to conduct a review of every new sponsor at least once during the first year of operation and (B) to annually review a number of sponsors whose program reimbursements, in the aggregate, accounted for at least one-half of the total program meal reimbursements in the State in the prior year.

Due to FNS COVID-19 Responses #56 and #57, since August 31st 296 experienced SFA Sponsors have moved from the National School Lunch Program (NSLP) to operating the SFSP. Of these 296 SFA sponsors, 121 are new SFSP sponsors. KSDE had previously approved 204 SFSP Sponsors during the unanticipated school closures due to COVID-19 last spring and are in the process of conducting SFSP Administrative Reviews per regulation. KSDE has 9 Child Nutrition Consultants that assist with SFSP reviews during the summer months. During the normal school year, these same 9 Child Nutrition Consultants complete the SNP Administrative Reviews between the months of October and June. On average, KSDE conducts 116 SFSP reviews. These reviews take an estimated average of 4-8 hours to complete, including review preparation, on-site review and follow-up (not including travel time). This year due to SFAs switching to the SFSP in March during the unanticipated school closures and then many continuing to provide meals to children throughout the summer, KSDE initially had scheduled 97 SFSP reviews. Since August 31 when COVID-19 Response #56 was released, an additional 121 new SFAs have decided to switch from serving meals under the NSLP to the SFSP. Due to these additional new SFA Sponsors implementing the SFSP, KSDE would need to conduct 89 additional new SFSP sponsor reviews on top of the already scheduled 97 SFSP reviews. This total considers all other available flexibilities, including removing SFAs that had an SNP Administrative Review for 2019-2020. KSDE has opted into the Nationwide Waiver of Onsite Monitoring Requirements for State Agencies in the SFSP which allows SFSP reviews to be conducted as a desk audit. Experience over the summer months has indicated that desk audits take as long or longer than on-site audits due to the amount of time it takes to get scanned documents for review from the SFAs, on average 6-12 hours per review, increased technical assistance needs and follow-up. With 9 full-time Child Nutrition Consultants available to schedule and dedicate time to SFSP reviews between now and the end of the calendar year, it would be impossible to complete the additional 89 new SFA reviews by December 31st while also maintaining program integrity, providing technical assistance with 2021 Program SFSP Program Renewal and necessary training so that safe meals are served per nutritional requirements and counted per program regulations.

Child Nutrition Consultants are also providing technical assistance to opt into waivers, update Sponsor and Site applications, assist Sponsors in the process to revise claims due to the retroactive claiming available due to COVID-19 Response #57, and conduct training as scheduled.



In addition to KSDE’s dramatic increase in SFSP reviews to complete in a short amount of time, KS schools are also faced with an enormous amount of stress and increased work load as the school year unfolds. SFAs are faced with the unprecedented task of providing meals for on-site, remote and hybrid learners – many using three learning models at the same time. Foodservice staff are being diagnosed with COVID and many are in quarantine resulting in State agency staff working with school administrators on contingency plans to find ways to provide meals. Adding a SFSP review on top of the increased workload and current stress regarding staffing would tax the collaborative relationships KSDE has worked hard to build with local SFAs.

**Monitoring and Oversight Plan for Summer Food Service Program Sponsors:**

Program Year	#Reviews	Aggregate Reimbursement Reviewed / Total Reimbursement Prior PY	% Total Reimbursement
2018	87	\$3,210,663 / \$4,460,673	71.9%
2019	117	\$3,644,351 / \$4,523,071	80.5%
2020	103	\$2,673,936 / \$4,884,160	54.7%
2021	86/342	**\$30,296,795 / \$61,082,726	49.59%

\* If New Public SFAs are not omitted (waiver not approved) this will add 89 additional reviews- doubling the review load for PY20 to 191.

\*\*Reimbursement total for PY2020 is not yet available but will increase significantly from the \$61,082,726 as of October 31, 2020 that is noted in the table above.

Assumptions: For PY 2020, Per 7 CFR 225.7(d)(2) KSDE will conduct New Sponsor Reviews for the 33 new non-SFA and SFA SFSP Sponsors that have participated during Summer 2020 prior to August 31st as well as the 31 sponsors due for their 3-year review, 5 Sponsors determined to have operational problems in the previous year, and 34 additional sponsors in order to review sponsors that account for at least one-half of the total program meal reimbursements in KS from summer 2019 (50% = \$2,394,488.96). The total of these 103 reviews will account for \$2,673,936 of total program reimbursement in KS from Summer 2019.

For PY 2021, it cannot yet be determined how many reviews will need to be conducted, but due to the high reimbursement totals in PY2020 due to the COVID Response, we are asking for a waiver of the 50% of reimbursement regulation. KSDE’s proposed Monitoring Plan for SFSP PY 21 is to review SFSP Sponsors due for a SFSP Administrative Review (Last review was in PY18, plus new Sponsors since August 2020 (private schools and private non-profits only) and any SFSP Sponsor determined to be at risk through targeted technical assistance sessions or if follow up is required from PY20 review.

**Increased Need for Technical Assistance and Training**

Approval of the three waiver requests will enable KSDE CNW to offer targeted technical assistance sessions and increased trainings which are essential during this time of COVID-19 Response. Kansas Sponsors embrace technical assistance and training and work diligently to follow program regulations as they provide nutritious meals and snacks to Kansas kids. They frequently come to KSDE CNW asking for assistance and support and in PY2020 KSDE CNW had over 17,000 registrations for training sessions. See Q.#6 for a detailed description of the technical assistance and training plan.

CNW understands that program monitoring requirements were established to ensure a comprehensive evaluation of child nutrition programs by State Agencies of the Sponsors



participating and KSDE CNW staff will work diligently to conduct, at a minimum, the monitoring activities as outlined in this plan.

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

**Summer Food Service Program:** KS CNW is seeking a waiver to 7 CFR 225.7(d)(2)(ii)(A) to conduct a review of every new sponsor at least once during the first year of operation and (B) Annually review a number of sponsors whose program reimbursements, in the aggregate, accounted for at least one-half of the total program meal reimbursements in the State in the prior year.

**Child and Adult Care Food Program:** KS CNW is seeking a waiver to 7 CFR 226.6(m)(6) to review 33.3% of all institutions and 7 CFR 226.6(m)(6)(i) to review independent centers and sponsoring organizations of 1 to 100 facilities at least once every three years and include 10% of their facilities.

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

**Targeted Technical Assistance Sessions:** KSDE CNW would schedule a targeted technical assistance visit with all Sponsors. Structured Targeted Technical Assistance would be conducted with Sponsors virtually to ensure waivers are being implemented to maintain program integrity, point of service is being taken as required and menus meet requirements while maintaining food safety. If Sponsors implement multiple Child Nutrition Programs, all programs would be discussed at one time to decrease Sponsor burden. Sponsors would have the opportunity to request additional items to be evaluated with guidance if desired. If risk is noted, an administrative review would be scheduled.

**Improved Program Operations through Training:** During the transition to SFSP for unanticipated school closures earlier this year, KSDE provided training above minimum requirements outlined in 7 CFR 225.7(a) in the form of new sponsor training via ZOOM, On-line SFSP Administrative training, On-line SFSP Meal Pattern training, ZOOM NSLP Administrative Training, ZOOM CACFP Administrative Training, phone calls, Town Hall meetings and numerous management level training and staff development opportunities. KSDE also provides COVID-19 Updates at least weekly via listservs and posted at [www.kn-eat.org](http://www.kn-eat.org), Summer Food Service Program, What's New, Child & Adult Food Program, What's New and National School Lunch Program, What's New. For a list of Professional Development training opportunities currently scheduled, go to the CNW calendar at this link: [https://www.kn-eat.org/CNW/CNW\\_Menu/CNW\\_Calendar.htm](https://www.kn-eat.org/CNW/CNW_Menu/CNW_Calendar.htm). KSDE will continue to schedule training webinars and weekly Town Hall meetings where Sponsors can learn, ask questions and share best practices. Technical assistance will be provided to individual Sponsors via phone and ZOOM.

**Technology:** KSDE created applications in KN-CLAIM to allow Kansas Sponsors to elect waivers and to collect data for waiver reporting for all Child Nutrition Programs. Additional program technical assistance was/is provided by the KSDE Child Nutrition & Wellness Director, Assistant Directors and Child Nutrition Consultants based on information provided on the waivers and Sponsor and Site applications.



**Summary of Impact:** Because of KSDEs strong dedication to program integrity, customer service, training and technical assistance, regularly scheduled professional development training, written updates and technical assistance check-ins will provide opportunity to clarify program requirements and determine if additional training or monitoring is needed. If this monitoring and oversight plan is approved and the waivers granted, KSDE will have staff time to conduct monitoring and oversight reviews prioritizing sponsors that may be at risk of non-compliance per the plan outlined above as well as provide technical assistance and training. Sponsors of multiple programs could review all program areas at one time to decrease burden if requested by the Sponsor. KSDE had already implemented this practice for requesting Sponsors in PY2020.

**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]:**

There are not state regulatory barriers.

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

KSDE CNW does not anticipate any challenges with the implementation of this waiver by either the State Agency or program sponsors. Kansas Authorized Representatives have been advocating for a longer review cycle to reduce burden and to have all programs reviewed at one time if implementing more than one Child Nutrition Program. COVID-19 Meal Service has added increased work load for Kansas Sponsors who are implementing multiple meal service models this year. It is essential to reduce administrative burden where possible so that children can be provided meals and that our programs truly can function as a nutrition safety net.

**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]:**

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 as well as technical assistance and training to help Sponsors implement programs with integrity. Program reimbursement will continue to be based on total number meals served to eligible participants by the Sponsor.

**10. Anticipated waiver implementation date and time period:**

KSDE CNW is requesting a waiver of 7 CFR 225.7(d)(2)(ii)(A) and (B) through the end of the 2022 SFSP Program Year, which is December 31, 2022 and a waiver of 7 CFR 226.6(m)(6) and 7 CFR 226.6(m)(6)(i) through the end of the 2022 FFY which is September 30, 2022.

**11. Proposed monitoring and review procedures:**

**School Nutrition Programs:** Continue monitoring of SNP Sponsors on a 5-year review cycle and Food Service Management Company Reviews as required every 3 years. Procurement Reviews are conducted at least every 6 years.

**Child and Adult Care Food Program:** If a state-wide waiver is granted, KSDE would monitor CACFP Sponsors with less than 100 sites once every 4 years and continue monitoring CACFP Sponsors with more than 100 sites once every 2 years.



**Summer Food Service Program:** If a state-wide waiver is granted, KSDE will continue monitoring of SFSP Sponsors as required at 7CFR 225.7(d)(2)(ii):

- (C) Annually review every sponsor which experienced significant operational problems in the prior year;
- (D) Review each sponsor at least once every three years; and
- (E) As part of each sponsor review, conduct reviews of at least 10 percent of each sponsor's sites, or one site, whichever number is greater.

KSDE would also monitor all new NON-SFA Sponsors participating in the SFSP within the first year and provide targeted technical assistance sessions via phone and ZOOM to all Sponsors with a Sponsor review scheduled if risk is determined.

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

KSDE CNW will provide a comprehensive report on the impact of this waiver. This report will identify the number of reviews completed, number of Targeted Technical Assistance sessions, number of findings per administrative review and amount of fiscal action per program.

**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]:**

Notice is posted at [www.kn-eat.org](http://www.kn-eat.org), School Nutrition Programs, What's New and [www.kn-eat.org](http://www.kn-eat.org), Child and Adult Care Food Program, What's New and Summer Food Service Program, What's New.

**14. Signature and title of requesting official:**

**Cheryl S. Johnson, MS, RD, LD**

Director, Child Nutrition & Wellness, Kansas State Department of Education

Requesting official's email address for transmission of response: [csjohnson@ksde.org](mailto:csjohnson@ksde.org)

**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:**