



Food and
Nutrition
Service

May 4, 2023

Braddock
Metro Center

Tamika Boone, Director

1320
Braddock
Place
Alexandria
VA 22314

Georgia Department of Early Care and Learning
2 Martin Luther King Jr. Drive, SE Suite 754, East Tower
Atlanta, GA 30334

Dear Tamika Boone:

This letter is in response to the Georgia Department of Early Care and Learning (DECAL) April 28, 2023, request to provide flexibility to waive the May 1, 2023, compliance date published in the Final Rule: *Streamlining Program Requirements and Improving Integrity in the SFSP*. In order to support access to nutritious meals while DECAL prioritizes compliance with the changes to the Summer Food Service Program (SFSP) outlined in the recently passed *Consolidated Appropriations Act, 2023*, FNS recognizes that certain flexibilities may be necessary. Therefore, FNS approves DECAL's request to delay the compliance timeframe published in the Final Rule *Streamlining Program Requirements and Improving Integrity in the SFSP*, until January 1, 2024. While FNS is allowing for the delay in compliance from May 1, 2023, to January 1, 2024, please note that the effective date of the Final Rule remains October 1, 2022, as published, and State agencies should begin implementation before the date in which they must be in compliance with the new requirements within the rule. While this waiver grants State agencies additional time to come into compliance with the new requirements, States are expected to meet all program integrity measures and to ensure that all sponsors are meeting existing program requirements.

FNS understands that with the passage of the *Consolidated Appropriations Act, 2023*, States must prioritize their limited resources to ensure timely implementation of this legislation. States require additional flexibility to come into compliance with the regulatory changes delineated in the Final Rule: *Streamlining Program Requirements and Improving Integrity in the SFSP* with the new legislation. While the effective date remains October 1, 2022, FNS will not assess compliance with the new regulations until January 1, 2024. Please note that provisions in the Final Rule may still be implemented prior to the delayed compliance date of January 1, 2024, at the State's discretion. FNS encourages DECAL to observe the May 1, 2023, compliance date for provisions of this rule that do not pose a significant operational challenge in 2023. State agencies are expected to ensure that all sponsors are meeting existing requirements with regard to financial viability, financial management, administrative capability, and program accountability, in addition to continuing to meet all program integrity measures as outlined in regulations while utilizing this waiver.

FNS has authority to issue statewide waivers under Section 12(l) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1760(l). To grant a Section 12(l) waiver, the NSLA requires that the waiver must facilitate the purpose of the program, the public must receive notice and information regarding the proposed waiver, and the waiver may not increase the overall cost of the Program to the Federal Government. FNS finds that DECAL's waiver request for a delayed compliance date satisfies these statutory requirements. DECAL's waiver request to use a delayed compliance date is granted and it will need to comply with a January 1, 2024, compliance date.

Pursuant to the waiver authority granted at Section 12(l) of the NSLA, FNS waives the May 1, 2023, compliance timeframe published in the Final Rule: *Streamlining Program Requirements and Improving Integrity in the SFSP*. Any other requirements referenced in these provisions remain in effect including the effective date. DECAL must document for which provisions it will delay enforcement and should inform Program operators of the flexibilities provided through this waiver as quickly as possible.

The waiver authority at Section 12(l) of the NSLA requires FNS to review the performance of any State or eligible service provider that was granted a waiver. Therefore, by May 4, 2024, DECAL must provide to the FNS Southeast Regional Office (SERO) a report quantifying the impact of the waiver included in this approval as described below.

The report must include the following:

- A description of how the waivers impacted meal service operations at participating sites;
- A description of whether the waivers resulted in improved services to children;
- A description of how the waivers reduced the quantity of paperwork necessary to administer the Program; and
- A list of the requirements for which the State delayed compliance.

FNS appreciates DECAL's exceptional effort to meet the nutritional needs of children. If you have questions, please contact the FNS SERO.

Sincerely,

Jessica Saracino
Director
Program Monitoring and Operational Support Division
Child Nutrition Programs

Electronic Copy: Rosie Daugherty