



Matthew L. Blomstedt, Ph.D., Commissioner

# NEBRASKA

## DEPARTMENT OF EDUCATION

www.education.ne.gov  
301 Centennial Mall South  
P.O. Box 94987  
Lincoln, NE 68509-4987  
TEL 402.471.2295  
FAX 402.471.0117

April 6, 2022

Jennifer Otey  
Mountain Plain Regional Office  
1244 Speer Blvd Suite 903  
Denver, CO 80204-3581

Subject: Nebraska Department of Education Administrative Review Waiver Request

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

Nebraska Department of Education (NDE)  
Attn: Kayte Partch  
500 S 84<sup>th</sup> Street  
P.O. Box 94987  
Lincoln, NE 68509-4987

2. **Region:** Mountain Plains

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

The Nebraska Department of Education (NDE), the State Agency (SA) for the USDA Child Nutrition Programs (CNPs), is requesting this waiver to the NSLP Administrative Review (AR) cycle monitoring requirements. This request is intended to waive selected monitoring requirements of the National School Lunch Program and National School Breakfast Program for SFAs in good standing during the 2021-22 school year (SY).

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(1)(2)(A)(iii) and 12 (1)(2)(A)(iv) of the NSLA]:**

The COVID-19 pandemic continued to create challenges and administrative burdens for the SA staff and local operators during SY2021-22. This waiver request seeks to add a seventh year to the NDE's AR schedule in order to make necessary accommodations and adjustments related to the COVID-19 pandemic.

**National School Lunch Program (NSLP):**

Challenge: Significant challenges in completing AR have emerged as a result of the COVID-19 omicron variant wave that began in Nebraska in mid- to late-January 2022. Both the NDE and school food authority (SFA) staff have experienced a variety of challenges and delays in completing the required components of the AR. SFA staff have lacked the time necessary to provide timely responses the NDE's requests for records, completion of off-site forms, and to adhere to follow-up requests resulting from AR observations and findings. The lack of available

time for SFA staff is the result of staff shortages, which has been a theme across the food service and other industries nationwide. These resulting delays require the NDE staff to spend additional time generating follow-up requests, providing technical assistance to staff not normally involved in the AR process, and have often resulted in rescheduling virtual meal observations. All of these adjustments result in reduced efficiency in the AR completion timeline, as well as scheduling conflicts among ARs. Increased time commitment for completing off-site ARs also results in diminished capacity to offer training and technical assistance, which has been essential in an unusual school year with many supply chain and staff shortages and turnover.

Goal: The goal of this waiver is to address the challenges SFAs and SA staff are encountering by adding one year to our previously approved six-year AR cycle for NSLP, School Breakfast Program, Special Milk Program, Afterschool Snack Program or Fresh Fruit and Vegetable Program. The NDE is requesting to waive **7 CFR 210.18(c)** for SY2021-22, allowing for a seven-year AR cycle and an eight-year PR cycle. SFAs contracting with a Food Service Management Company will continue receiving PRs on a 3-year cycle

- Effective oversight measures will be implemented to ensure program integrity and will serve as an effective replacement for ARs. These oversight measures include technical assistance through one-on-one technical assistance offered by phone, email, and Zoom meetings with new food service directors; monthly Town Hall virtual meetings focusing on the needs to newer food service directors (experienced directors have been designated as mentors to less experienced FSDs). The NDE also utilizes its recorded training videos, which are accessible at any time from our public-facing website/training page.
- The SA will implement oversight measures to ensure program integrity including identifying misuse of Federal funds and fraudulent activities using a Risk Assessment of SFAs operating the NSLP. The NDE tracks new food service directors and SFAs with previous findings of operational issues. New directors, as mentioned above, participate in Town Halls using a mentor/mentee strategy to support program integrity and to provide advice on best practices for following program regulations. SFAs with previously identified findings have been and will continue to be provided targeted technical assistance.
- Training and technical assistance measures the SA will implement to assist Program operators and ensure that Program requirements are met include the following: SFAs operating NSLP and SBP will continue to engage in one-on-one technical assistance with NDE team members; the NDE provides monthly newsletters to provide updates, to share important guidance, and to address common issues the SA observes in its work across the state.
- Specific training will be provided through webinars and resources on these topics:
  - o Technical assistance for meal pattern compliance.
  - o Procurement training designed to assist SFAs in preparing for competitive selection of a Food Service Management Company for SY2022-23 was provided in December 2021.
- Expected outcomes include the following: This waiver will significantly decrease administrative burden and allow for efficient and effective oversight of program operations. No change will need to be made to current technology systems as a result of this waiver.

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

The SA is requesting to waive the requirements of [7 CFR 210.18(c)]: Timing of administrative reviews and cycle.

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

**National School Lunch Program:**

The SA will continue to monitor claims submitted by the SFAs operating SBP/NSLP. NDE program specialists will provide technical assistance to all sponsors.

Changes to current technology systems as a result of this waiver will not be needed.

Approval of this waiver request will decrease administrative burden in order to support efficient and effective oversight of program operations.

**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]:**

Nebraska does not have any State statutory or regulatory barriers that apply to this waiver request.

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

There are not any challenges for State or sponsoring agencies anticipated with the implementation of this waiver.

**9. Description of how the waiver will not increase the overall cost of the Program to the Federal Government. If there are anticipated increase confirm that the costs will be paid from non-Federal funds. [Section 12(l)(2)(A(ii) of the NSLA]:**

The requested waiver does not impact the overall cost of the program to the State or Federal government.

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

This waiver will be implemented immediately upon receiving approval. It will be applied to our current AR cycle and will add an additional year to the six-year approved cycle NDE is utilizing.

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

NDE will continue carrying out AR monitoring requirements using standard CNP review procedures for desk and virtual reviews for ARs that have been started. ARs that have not been started because of significant delays in completing ARs because of staffing issues and slow response times experienced during an off-site AR will be completed in the following school year. Additional AR cycle adjustments will be made as needed to ensure the SA has a manageable AR load to complete in a seven-year cycle.

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

NDE will report to FNS regional office the following:

- A list of technical assistance resources developed and provided during the time this waiver was in place; and

- The number of ARs completed in SY2021-22, as well as the number of ARs intended to be completed in SY2021-22 that need to be moved to a future year of the seven-year cycle.

**13. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(1)(2)(A(ii) of the NSLA]:**

The public notice is available here: <https://www.education.ne.gov/ns/>

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

A handwritten signature in black ink that reads "Kayte Partch". The signature is written in a cursive, slightly slanted style.

Kayte Partch, MS, RD  
Director, Child Nutrition Programs  
Nebraska Department of Education