



**Feeding Bodies. Fueling Minds.™**

July 12, 2019

Michael Poe  
Office of Budget and Program Analysis  
U.S. Department of Agriculture  
Jamie L. Whitten Building, Room 101–A  
1400 Independence Ave, S.W.  
Washington, DC 20250

Dear Mr. Poe:

The School Nutrition Association (SNA) appreciates this opportunity to provide comments on the Federal Register Notice of July 17, 2017 and the extension published in the June 20, 2018 Federal Register, related to *Identifying Regulatory Reform Initiatives*. Throughout this process of identifying recommended regulatory reform initiatives for the Food and Nutrition Service (FNS), SNA has reached out to its 58,000 members through surveys and working groups to canvass recommended areas that USDA should review to initiate regulation reform.

We have submitted previous letters on September 17, 2017, November 14, 2017 and July 13, 2018. A summary chart of those comments has been attached to this document for reference. Each recommendation reduces burden to program operators and administrators while supporting the integrity of the program.

The child nutrition programs have seen many changes over the years and have had additional program limitations added through the regulatory process. The additional regulations have made the programs administratively dense. Like any business or organization, school nutrition programs use good management tools and have procedures in place for accountability and compliance. In previous comments, we have addressed several areas that would provide relief from regulations without impacting program compliance. There are a few additional areas we feel should be added to this initiative. They include:

### **ADMINISTRATIVE REVIEWS**

In Section 207 of the Healthy, Hunger-Free Kids Act (P.L. 111-296) (Section 22 of the National School Lunch Act), the Secretary was given the authority to establish an Administrative Review system (7 CFR 210.18) for the National School Lunch Program. Regulations regarding the Administrative Review cycle have gone through several transitions. Initial implementation of these Reviews required a four-year cycle. Next, regulations called for a five-year cycle. In the final regulations responding to the HHFKA, the requirement was changed again to a three-year cycle [7 CFR 210.18(c)]. This change to a three-year cycle has been difficult for State agencies and local school district operators to implement. FNS initiated

a waiver opportunity for State agencies. Many states have requested to return to the 5-year cycle. Some states that would prefer a 5-year cycle are reluctant to request a waiver because the uncertainty and requirement to reapply makes it difficult to plan future Administrative Review processes. Returning to a 5-year cycle would provide enough time to complete full and thorough Administrative Reviews as well as provide additional flexibility to undertake technical assistance and corrective action efforts. USDA had operated under the belief that State agencies should have maximum flexibility to provide training and technical assistance to their schools. Therefore, we recommend stressing corrective action over automatic disallowances. It is hoped that USDA does not want to penalize School Food Authorities (SFAs) which are making good faith efforts to move toward compliance. State agencies are in the best position to determine what corrective actions must be taken, what the time frames for completion will be and whether the SFA is making a good faith effort to comply.

In addition, the prescribed review instruments used for the Administrative Reviews [7 CFR 210.18(f)(1)] have been quite burdensome on State agencies and school districts. While some areas of review have risk-based assessment tools, these risk-based tools are not applied to all sections in the extensive documents of the review packet. There are less complex ways to make compliance determinations in the various operational aspects of the program than the currently designed format. The review instruments should be consistent, have minimal redundancy and eliminate nuances which make determining compliance difficult.

#### **AREA ELIGIBILITY DETERMINATIONS USING CENSUS DATA**

The area eligibility determinations for the various child nutrition programs use different criteria to assess eligibility. The Child and Adult Care Food Program (CACFP) and the Summer Food Service Program (SFSP) allow census data to determine area eligibility [7 CFR 226.15(f) and 7 CFR 226.15 (g)]. In some instances, these programs, depending on the design of the program, operate in school settings. While they have protocols for determining the eligibility for summer program sites and aspects of the CACFP, the census data determination option is not available for the At-Risk Program. To provide consistency and eliminate one of the nuances of the program, which adds to the administrative burden, At-Risk Meal Programs should have the option to determine eligibility using census information.

#### **SUMMER FOOD SERVICE PROGRAM MANAGEMENT AND ADMINISTRATIVE PLAN**

Each year, State agencies administering the SFSP must submit by February 15<sup>th</sup> an annual Management and Administrative Plan (MAP) to the applicable FNS Regional Office (FNSRO) (7 CFR 225.4). This plan in concept, requires a state to outline the various aspects of the program's administration every year. Several years ago, the State Administrative Expense (SAE) Plan was required to be submitted on an annual basis. This annual requirement was changed to have revisions submitted only when there is a change in financial management variances. It would seem if the plan for all programs administered by a state is revised only when it meets the defined criteria, that the requirements for a MAP for the summer program could have a similar threshold or reduced frequency of being submitted.

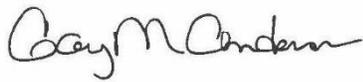
#### **CHILD NUTRITION REPORTING BURDEN ANALYSIS STUDY**

It is timely that FNS has just released the report to Congress, [Child Nutrition Reporting Burden Analysis Study](#). The overarching objective of the Study was to develop a set of considerations for FNS to address

reducing State agency and SFA administrative and reporting burdens related to school meals programs. As indicated in the report, 'CN program stakeholders—including Congress, FNS, SAs, and SFAs—should regard these key considerations as suggestions for consolidating reporting requirements, simplifying program regulations, and improving program operational efficiencies.' The report provides FNS with a roadmap to revitalize the child nutrition programs bringing them into the 21<sup>st</sup> century. The principles and key considerations noted in the report affirms and validates the comments SNA has offered throughout this regulatory reform initiative. As USDA implements the report findings, SNA looks forward to collaborating with USDA and the FNS.

Across the breadth of child nutrition programs, where possible to revise regulations to streamline and eliminate the exceptions to the rules, child nutrition programs will be stronger and more efficient.

Sincerely,



Gay Anderson, SNS  
President



Patricia Montague, CAE  
Chief Executive Officer

Enclosure