

July 10, 2015

Ms. Julie Brewer
Child Nutrition Policy and Program Development Division
Food and Nutrition Service
U.S. Department of Agriculture
3101 Park Center Drive, Room 1212
Alexandria, VA 22302-1594

Dear Ms. Brewer:

Thank you for the opportunity to submit comments on the Proposed Rule, *Administrative Reviews in the School Nutrition Programs*. As a Regional Consultant for the North Carolina Department of Public Instruction, I base these comments on actual experiences and lessons learned from “my” School Nutrition Directors and their staffs that administer the programs in their local education agencies- the very people who struggle to meet the requirements of these USDA programs on a daily basis.

Technical Assistance during the Administrative Review

I appreciate the attempt by the US Department of Agriculture (USDA) to standardize the Administrative Review (AR). However, the current AR tool significantly lowered accountability standards that were previously established in NC while limiting my capacity to provide meaningful on-site technical assistance and consultation to School Food Authorities (SFAs) and Local Education Agencies (LEAs). Remember the Coordinated Review Effort (CRE) and Special Meals Initiative (SMI)? In North Carolina it included a comprehensive financial and resource management review, an extensive procurement review, and included reviews of all programs operated by the SFA every five years, including the breakfast, lunch, after school snack, seamless summer and the fresh fruit and vegetable programs. The SMI review included an on-site comprehensive review of menus, recipes, production records, food labels and included a nutrient analysis for all SFAs. In the four years between the CRE and SMI Reviews, I was able to provide on-site technical assistance for all of my assigned SFAs to teach the regulations in a relaxed environment conducive to learning while simultaneously providing coaching and feedback, helping SFA personnel achieve compliance with the regulations in their day-to-day operations, establishing an environment where School Nutrition Directors could ask me for feedback on various practices without fear of retribution and assisting SFA personnel in the implementation of School Nutrition best practices. As a result of this level of on-site assistance, I with my co-workers achieved an administrative error rate of less than one percent. Our philosophy is to “teach first and test second.” I attribute our achievement to this organizational philosophy. The level of technical assistance that I and my co-workers were able to provide prepared SFAs to achieve compliance with the regulations, especially in the critical performance standard areas.

Since changing to the new AR, I have noted that Technical Assistance provided during an AR may correct a problem on the day it occurs, but the corrective action is seldom sustainable for the long-term, especially where complex errors are concerned. Also, SFA personnel are somewhat intimidated by the review process and are anxious about the review outcomes. This intense environment is not conducive to the teaching/learning process. If I take adequate time to do a thorough but fair AR, the quality of the technical assistance that I am able to provide is significantly lower than what I was once able to provide in the CRE/SMI days. “My” School Nutrition Directors deserve better than I am currently able to provide while conducting an AR.

I am told that the cost to NC DPI operating under the AR “system” versus the CRE/SMI system is triple- considering the three-year cycle, “simplified” review tool and the addition of the “off-site” component of the AR. At this rate Federal funds will not be sufficient to cover the cost.

Please alter the proposed rule so SFAs with no critical area violations or findings that suggest the unallowable use of Federal funds may return to the five year review cycle. SFAs with critical area violations and/or evidence of unallowable use of funds should be required to undergo a review every three years for two cycles, or more frequently depending upon the serious nature of the review findings. This modified review cycle would enable me to conduct quality technical assistance reviews, on-site in most SFAs on a regular basis. This modified review cycle would also help relieve the resource and time consuming burden of administrative reviews for SFAs that have a proven record of no critical violations while the modified review cycle would also ensure SFAs with critical violations have sufficient support to develop meaningful, sustainable corrective action. Further, please consider the monetary cost as well as the cost of reduced ability to provide technical assistance as you consider the final rule.



Duplication within the Administrative Review forms

I have one thing to say... “REALLY?” In the attempt to minimize the paperwork supporting the compliance monitoring process, the USDA has succeeded in increasing paperwork and the time it takes to complete it with the implementation of the new AR tool. In many areas the review forms repeat the same review questions. This simply causes confusion and increases the time it takes to complete the AR while decreasing the time that I have to provide technical assistance.

If a general review area is addressed in one portion of the AR, it should not be duplicated in another. The same recommendation applies to the special programs such as the Seamless Summer Option (SSO) or the Fresh Fruit and Vegetable Program (FFVP); the forms utilized are duplicative across the programs and should be streamlined for efficiency. AR questions should not be repeated in these individual modules if they are included in the general review questions.

Additionally, there is redundancy in verifying performance-based certification, The Healthier US School Challenge, nutrient analysis requirements and more which should be further addressed and simplified. Please ask State agency directors to identify areas of duplicity so they may be eliminated from the AR forms before the forms are finalized. Please eliminate redundant redundancy!



Transparency Requirement

Under the Proposed Rule, State agencies will be required to report the final results of Administrative Reviews to the public. I support the requirement for transparency. However, also afford the opportunity to make public the commendations or good things that “My” School Nutrition Directors and their personnel are doing. Public reports that only reflect the negative violations and errors are not truly transparent because such reports do not contain the “whole picture.” There a lot of great things going on in “my” SFAs.

Instead of adding to the burden to the State Agency of compiling an additional report, please consider requiring each SFA to publish the results of its entire AR including not only the findings but the recommendations, commendations and required corrective actions. Perhaps it could be made public on the SFA/LEA website? This could be an excellent means of increasing the understanding of the public- not simply the bad- but the whole picture.

Critical Areas of Review

In my experience the impact of errors or violations in the financial management of the School Nutrition Program can be more significant than even those of Performance Standards 1 and 2 violations. While the proposed rule addresses the critical areas of the review (Performance Standards 1 and 2), the proposed rule does not address other areas that directly impact the financial integrity of the School Nutrition Programs in the same manner. Errors in the assessment of indirect cost, the funding of personnel whom are dually employed within the Local Education Agency (LEA), the assessment of Worker’s Compensation premiums/payments and other areas often constitute an unallowable use of Federal funds and should be treated with the same fidelity as the PS 1 and 2 violations.

These errors and violations directly impact the bottom line of every SFA in the country and should be addressed in the AR!

Please consider treating those violations found while reviewing the Resource Management component of the AR similarly to the PS 1 and 2 violations. Errors and violations in these areas compromise the integrity of the program to the same degree as the PS 1 and 2 violations. Any situation where SFAs are assessed fees for expenses or other items by the LEA that are unallowable under the Federal award constitute a critical violation of the program’s limited resources. Additionally the Resource Management component of the AR should be strengthened to include areas where the program’s resources are vulnerable to error, such as validation that any funds due to the non-profit School Nutrition account are actually returned to the account; salaries and benefits for personnel dually-employed by the SFA and other programs within the LEA are pro-rated based on the actual percentage of time devoted to a specific program; and expensing worker’s compensation premiums and payments to the School Nutrition account.

Further, the use of Federal School Nutrition funds should be included specifically in the Federal Compliance Circular used by local independent auditors to ensure Federal funds are used only for allowable purposes. Including resource management in the single audit supports State

agencies in achieving the goal that all School Nutrition funds are used in a manner consistent with the Federal award. Local independent auditors are in North Carolina SFAs annually-sometimes at cross purposes with me, it seems. Wouldn't it be a good idea to capitalize on the auditors' presence and expertise by telling them what to look for?

Risk Indicators

The Risk Assessment Tools provided up to this point by the USDA seldom trigger more comprehensive reviews. Without adjusting the tolerance levels, the Risk Assessment Tools are a waste of my time. By adjusting the tolerance levels of these tools areas that require corrective actions would become apparent and, therefore, the tools would become more useful.

Please examine the various Risk Assessment Tools to determine whether they established a reasonable level of tolerance parameters. Communicate directly with State agency directors to determine the relative risk required by the Risk Assessment Tools in order to strengthen the indicators or "trigger factors" within the tools.

Timing of Reviews

The proposed rules would require State agencies to complete an AR within the school year in which the review was begun. This requirement would technically preclude reviews during the months of April, May and June as it is impossible to conduct, write, review and issue a Final AR report to a SFA in fewer than 90 days.

Please allow each State agency to establish an AR timeline that is consistent with their AR procedures, the number of ARs to be conducted and the number of State staff available to conduct ARs. These timelines could be submitted to each State agency's respective USDA Regional Office.

Definition of "Significant Number of Program Meals"

The proposed rule requires the State agency to "observe a significant number of program meals at each serving line" to determine whether all reimbursable meal serving lines *offer* all of the required food components and quantities for the age/grade group being served and to determine whether the meals *selected* by the students contain the required food components and food quantities required for a reimbursable meal. Given the risk for error at the Point of Service/Sale, it is important for the term "significant" to be defined so each State agency is reviewing a consistent number of meals served. This would also provide more consistency in reviewing between small schools with one serving line and a large high school with 6 serving lines and several points of service.

Please provide a clear definition for the term "significant" as it pertains to the actual number of meals to be observed by reviewers. Ideally, the term "significant" would be consistent with the

approach used with the Access, Participation, Eligibility and Certification Study, since the study suggests “significant” erroneous payments based on observations at the Point of Service/Sale.

Thank you for the opportunity to comment on the proposed rule.

Sincerely,

A handwritten signature in cursive script that reads "Melanie L. Crews".

Melanie Crews, Regional Consultant
North Carolina Department of Public Instruction