



PUBLIC SCHOOLS OF NORTH CAROLINA

DEPARTMENT OF PUBLIC INSTRUCTION | June St. Clair Atkinson, Ed.D., *State Superintendent*

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July 9, 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 express my comments on the Proposed Rule, *Administrative Reviews in the School Nutrition Programs*. I sincerely appreciate USDA's desire to strengthen and maintain program integrity through an effective and transparent process for monitoring school nutrition programs. With over 20 years of experience working in the School Nutrition program, first as a local SFA Director, then a State agency Consultant and now as the State agency Assistant Chief, I have been personally involved with and conducted the former Coordinated Review Effort and now the Administrative Review (AR). In my current role I am responsible for oversight of eleven (11) State agency Consultants who conduct the AR in School Food Authorities (SFA) throughout the state of North Carolina. My years of experience have taught me that program integrity and regulatory compliance are first and of foremost importance as we conduct the Federally-mandated reviews in school nutrition programs. I am, however very concerned about the significant challenges that I have witnessed in conducting the AR as a result of the major changes in the review process and AR schedule that were implemented as part of the 2010 Healthy, Hunger-Free Kids Act.

As I review the Proposed Rule, *Administrative Review in the School Nutrition Programs*, I am optimistic about the opportunity for positive changes to be implemented that may remedy some of the challenges that I and our State agency staff face during the AR process. However, I feel that there are additional areas to consider before finalizing the rule in order to streamline the review process and continue efforts toward greater program integrity while allowing us to work more closely with our SFAs to ensure better understanding of program requirements, and ultimately achieve full program compliance. With this in mind, I would so kindly ask that you consider my following comments and suggestions before finalizing the Proposed Rule, *Administrative Review in the School Nutrition Program*.

SCHOOL NUTRITION SERVICES

SAFE AND HEALTHY SCHOOLS SUPPORT DIVISION

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AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

ADMINISTRATIVE REVIEWS AND TECHNICAL ASSISTANCE:

Please reconsider the Administrative Review schedule, requiring all SFAs to be reviewed every three (3) years).

Prior to the implementation of the newly-developed AR procedures in 2013, the NC State agency staff conducted a comprehensive review of all SFAs every five years as required. The comprehensive review consisted of the Coordinated Review Effort (CRE) and the School Meal Initiative (SMI) for each program operated by the SFA (NSLP, SPB, After-School Snack, Fresh Fruit and Vegetable, Seamless Summer Option), and included a comprehensive review of all required elements for those PS1 and PS2 components, as well as the general areas of review. In addition, we completed an extensive financial management/resource management review, as well as a comprehensive procurement review in every SFA.

Comprehensive Technical Assistance (TA) was also provided to each SFA during the four years between the five-year CRE/SMI cycle. During the comprehensive TA, State agency Consultants were able to review a sampling of most every element of the School Nutrition program within each SFA, providing regulatory training, coaching, and program recommendations to SFA Administrators for operating their School Nutrition programs to meet regulatory compliance. My experience with the comprehensive TA was that any program compliance issues identified were quickly remedied and corrective actions were sustained. This ultimately resulted in a reduced error rate for the SFA during the CRE/SMI review.

Unfortunately, the new 3-year AR schedule has rendered our staff's ability to conduct comprehensive TA in each SFA almost impossible. And while TA may be provided during the AR, we've found there is not sufficient time to provide comprehensive training and coaching due to the other pressing requirements of the review, but primarily due to the time constraints.

I am thankful that there has been a one-time waiver to the 3-year cycle that began half-way through the 2014-2015 review year, allowing some State agencies to use the 5-year AR schedule for this cycle of reviews, however I highly encourage USDA to reconsider the 3-year AR cycle as a permanent timeframe as the current waivers expire. Instead, I would like to suggest that that SFAs with no significant regulatory compliance findings and/or unallowable use of Federal funds be returned to the 5-year AR schedule. SFAs with significant regulatory findings and/or unallowable use of Federal funds would be reviewed every three years. The modified review schedule would then enable us to return to providing more comprehensive TA to our SFAs, resulting in greater program compliance and ultimately providing the best service and meals to our students.

TIMING OF REVIEWS:

Please reconsider the timing of reviews to be completed during the same school year in which the review was begun.

The proposed rule requires ARs to be completed by the State agency within the school year in which the review was begun. Given the tight schedule for conducting the ARs, this would create a near impossibility to meet the timeframes for reviews conducted at the latter part of the school year, especially during the months of April, May and June, as sufficient time would not be available to complete the review, then write, review and issue a final AR report to a SFA in fewer than 90 days.

I would suggest that the State agency be allowed to establish an internal AR timeframe for meeting the AR procedures that is consistent and relevant to the number of ARs conducted during the year, as well as to the number of reviewers available to conduct the reviews. The State agency's timeline could be submitted to the regional USDA office for approval and monitoring.

CRITICAL AREAS OF REVIEW:

Please reconsider the proposal for fiscal action on violations of critical areas (PS1 and PS2 violations) of the review, as well as for Resource Management errors.

I am in agreement and appreciate the greater emphasis on program integrity as indicated in your goals for the Proposed Rule, *Administrative Reviews in the School Nutrition Programs*. Fiscal action should be required for errors in benefits issuance, meal counting and claiming and claim consolidation as reflected in Performance Standard 1 (PS1) violations, and should apply to the entire SFA, including non-reviewed schools as best deemed necessary by the Food and Nutrition Service (FNS) of the USDA.

Furthermore, the proposed rule addresses the critical areas of the review, but does not address other areas that directly impact the financial integrity of the School Nutrition Programs. The impact of violations in the resource management of the School Nutrition Program should be addressed with fiscal action as warranted, especially to the Local Education Agency (LEA) in the improper assessment of indirect cost, the funding of personnel whom are dually employed within the LEA, and the assessment of Worker's Compensation premiums/payments, as well as other financial areas that may constitute an unallowable use of Federal funds. These errors/findings should be treated with the same process as with the PS 1 and 2 violations.

I would recommend that fiscal action be taken for repeat violations for those general areas where there is purposeful intent to circumvent the regulations. If there are

violations because the staff is inexperienced, new to their role or other similar circumstances, I would recommend additional technical assistance and well-documented, sustained corrective action to ensure the regulations are being followed. I further suggest considering the adjustment for the fiscal action thresholds for fines to address the various sizes of SFAs.

In addition, I would recommend the Resource Management component of the AR be treated similarly to the PS 1 and PS2 violations because administrative errors in these areas compromise the integrity of the program to the same degree as the PS 1 and PS2 violations. Any situation where SFAs are assessed fees for expenses or other items by the LEA that are unallowable under the Federal award constitutes a critical violation of the School Nutrition Program's resources.

ADMINISTRATIVE REVIEW RISK ASSESSMENT TOOLS:

Please reconsider strengthening the factors for assessing risk in the modules utilizing the risk assessment tools as part of the Administrative Review process.

The proposed rule indicates the AR risk assessment tools will be updated for State agency use. In my opinion from using the risk assessment tools, I've found that risk levels are low and frequently do not trigger the requirement for more comprehensive reviews that, if conducted, would reveal regulatory non-compliance and areas that require corrective action.

I would therefore, recommend evaluating the relativity and usefulness of the Risk Assessment Tools to determine whether they reveal the desired level of comprehensive review. I suggest that the USDA communicate directly with State agency staff to determine the risk levels required by the Risk Assessment Tools in order to strengthen the indicators or "trigger factors" within the tools.



ADMINISTRATIVE REVIEW FORMS:

Please consider streamlining the AR review forms in an effort to reduce duplication of questions and reports.

While the AR process attempts to minimize the paperwork supporting the compliance monitoring process, there are still a number of areas where the review forms repeat the same review questions from form to form. The duplication of questions often causes confusion and lengthens the amount of time it takes to complete the AR. Questions should not be repeated in each individual module if they are included in the general review questions.

I would like to recommend that the AR forms be streamlined and re-designed in an effort to reduce the administrative burden and time constraints for review staff. Further, I would encourage the USDA to enlist the help of State agency directors to identify areas of redundancy in the AR forms as a means of increasing the efficiency and effectiveness of the review process.

TRANSPARENCY REQUIREMENT:

Please reconsider the requirement for the State agency to publish the SFAs' AR reports, instead requiring that each SFA make the AR results public.



My understanding from the Proposed Rule is that State agencies will be required to report the final results of each SFAs AR to the public. While I support transparency in the AR process, public reporting of this magnitude will be administratively burdensome to State agencies and increase the requirement for additional staff hours. I am also concerned about the development of a "new State agency report" that I may possibly create a duplication of effort for State agency staff who already have specific procedures for generating AR Reports (Exit letters, Management Letters, Report of Findings, Recommendations and Commendations). In addition, if the reports generated by the State agency only reveal "errors" or violations in the School Nutrition programs, as there is no requirement to report commendations to reflect the many positive contributions of School Nutrition Personnel in the management of their School Nutrition Programs, a negative reflection on the State agency may be perceived, creating a chasm between the working relationship with the State agency and the SFAs.

I would instead recommend that each SFA publish the results of its AR. In doing so, the SFA may include the results of the AR in its entirety and include not only the findings, recommendations and corrective actions, but also the commendations, so the public may have a true understanding of the program. A procedure may be developed to require each SFA to notify the State agency when the AR is made public. Having the SFA report its individual Administrative Review would also be consistent with other local reporting requirement by the SFA, i.e. posting health inspections and local wellness policies for public knowledge.

DEFINITION OF "SIGNIFICANT NUMBER OF PROGRAM MEALS:"

Please define the term "significant" as it pertains to the actual number of meals to be observed by reviewers.

In order to document meal pattern and meal counting and claiming compliance, 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 of 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.

I would recommend that the USDA provide a clear definition for the term “significant” as it pertains to the actual number of meals to be observed by reviewers in order to promote improved integrity in the meal counting and claiming aspects of the School Nutrition Programs and to ensure consistency between State agency reviewers.

I sincerely appreciate the opportunity to share my thoughts and recommendations on this proposed rule.

Sincerely,

A handwritten signature in black ink, appearing to read 'SarAnn Suttles', with a stylized, flowing script.

SarAnn Suttles, MBA, SNS
Assistant Chief, School Nutrition Division

c: Dr. Lynn Harvey, RDN, LDN, FAND, SNS, Chief, School Nutrition Division