

United States Senate

WASHINGTON, DC 20510

September 1, 2020

The Honorable Sonny Perdue
Secretary
United States Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Perdue:

Thank you for your letter dated August 20, 2020 in response to our letter dated July 29, 2020 urging you to extend all relevant school meal waivers for the entire 2020-2021 school year. We are glad that you have extended some school meal waivers until the end of the 2020-2021 school year, and grateful that you recently extended some other waivers until December 31, 2020. However, we remain concerned by your decision not to extend all waivers for the entire 2020-2021 school year, and we urge you to correct this as soon as possible. We also write to express disagreement with your conclusion that the United States Department of Agriculture (USDA) does not have the authority to extend these waivers until the end of the next school year.

In your response to our July 29th letter you wrote that the request to extend all of the relevant waivers “is beyond what USDA currently has the authority to implement.” This conclusion is based off an incorrect interpretation of the Families First Coronavirus Response Act (Pub. L. No. 116-127) (“FFCRA”). FFCRA clearly provided USDA with the authority to issue these waivers for the 2020-2021 school year. The only constraint that Congress imposed upon USDA’s authority to issue these waivers was the requirement in Section 2202(e) that they be issued on or before September 30, 2020. Waivers issued prior to that sunset date can still cover periods after the sunset date, including the entire 2020-2021 school year. USDA’s previous decision to extend a number of the nationwide waivers that we mentioned in our letter until the end of the 2020-2021 school year including for the food management company contract duration, local school wellness assessment, and the fresh fruit and vegetable program parent pickup requirements – and your recent decision to extend the Summer Food Service Program (SFSP), Seamless Summer Option (SSO), and Area Eligibility Waivers until the end of this calendar year – clearly show that USDA believes it has the authority to extend these waivers well beyond the sunset date.¹

The remaining waivers that you have not extended for the entire 2020-2021 school year are desperately needed by school meal providers across the country to ensure they have the funding, flexibility, and certainty to continue feeding schoolchildren for the entire upcoming school year. Many localities are dealing with budget shortfalls due to the economic impact of the COVID-19 pandemic, and are relying on federal assistance to keep providing meals. Furthermore, millions of parents have lost their jobs in the past six months and are struggling to ensure that their

¹ <https://www.fns.usda.gov/programs/fns-disaster-assistance/fns-responds-covid-19/child-nutrition-covid-19-waivers>

children have access to nutritious and healthy meals. Many families are relying on school provided meals as one of the only reliable sources of healthy food for their children.

We urge you to reverse your decision and use the authority given to your Department under the FFCRA to extend the following waivers nationwide for the entire 2020-2021 school year:

- Area Eligibility Waiver
- Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) Waivers
- Unexpected School Closures Waiver

We recognize the incredible effort USDA has undertaken to ensure that millions of schoolchildren in this country do not go hungry. This hard work is not yet complete and we implore you to continue working with states and use USDA's already existing authority to provide them with the flexibility needed to enable food authorities to provide meals through USDA's child nutrition programs. For any questions, please reach out to Andres Hoyos at Andres.Hoyos@hassan.senate.gov and Tom Koester at Tom.Koester@hassan.senate.gov. We look forward to receiving your response as soon as possible on this timely matter.

Sincerely,

Margaret Wood Hassan
United States Senator

Cory A. Booker
United States Senator

Richard Blumenthal
United States Senator

Benjamin L. Cardin
United States Senator

Thomas R. Carper
United States Senator

Robert P. Casey, Jr.
United States Senator

Christopher A. Coons
United States Senator

Tammy Duckworth
United States Senator

Richard J. Durbin
United States Senator

Kirsten Gillibrand
United States Senator

Mazie Hirono
United States Senator

Angus S. King, Jr.
United States Senator

Patrick Leahy
United States Senator

Edward J. Markey
United States Senator

Robert Menendez
United States Senator

Jeffrey A. Merkley
United States Senator

Christopher S. Murphy
United States Senator

Patty Murray
United States Senator

Jack Reed
United States Senator

Bernard Sanders
United States Senator

Kyrsten Sinema
United States Senator

Chris Van Hollen
United States Senator

Elizabeth Warren
United States Senator

Ron Wyden
United States Senator

Jacky Rosen
United States Senator

Jeanne Shaheen
United States Senator

Tina Smith
United States Senator

Mark R. Warner
United States Senator

Sheldon Whitehouse
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