

## APPEAL PROCEDURE—Summer Food Service Program for Children

The hearing procedure detailed below is established in accordance with federal regulations (7 CFR Part § 225.13) and must be followed when sponsors or food service management companies request a review of the following actions taken by the State agency: a denial of an application for participation; a denial of a request by a sponsor for an advance payment; a denial of a claim by a sponsor for reimbursement [except for late submission under § 225.9(d)(5)]; a State agency's refusal to forward to FNS an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim; a claim against a sponsor for remittance of a payment; the termination of the sponsor or a site; a denial of a sponsor's application for a site; a denial of a food service management company's application for registration (if applicable); or the revocation of a food service management company's registration (if applicable).

### Procedure:

- 1) The institution shall be advised in writing of the State agency's action and the basis for the action. The notice of action shall include a statement indicating that the institution has the right to appeal the action. The notice of action shall be sent by certified mail, facsimile, or email, and is considered to be received by the institution when it is delivered, sent by facsimile, or sent by email, whichever date is first. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual five days after being sent to the addressee's last known mailing address, facsimile number, or email address.
- 2) Any information on which the State agency's action was based shall be available to the appellant for inspection.
- 3) Any written request for review shall be submitted by the appellant and post marked not later than 14 calendar days from the date the appellant received the notice of action.
  - a) The written request for review must be addressed to: **Department of Public Instruction, Office of Legal Services, PO Box 7841, Madison, WI 53707-7841 or emailed to [benjamin.jones@dpi.wi.gov](mailto:benjamin.jones@dpi.wi.gov).**
  - b) The request for review will not be accepted by e-mail or facsimile.
  - c) Any request for review must specify who is filing the request (e.g., "The request is filed on behalf of [institution name], and [Authorized Representative name] and [Owner or Board President].")
  - d) Your request for a review must identify any contested issues of fact that you have with the State agency's determinations. You must identify which facts contained in the notice of action you are disputing and you must identify what evidence you have to dispute those facts. If you fail to specifically dispute any facts, the hearing official may find that you have admitted to the facts.
  - e) If you wish to have a hearing, you must specifically request one in your request for a review. Only if the appellant specifically requests a hearing in the letter of request for review, will the review official hold a hearing in addition to, or in lieu of, a review of written information submitted by the appellant.

- 4) The appellant may refute the charges contained in the notice of action in person, or by submitting written documentation to the review official, or both. In order to be considered, written documentation must be filed with the review official not later than 7 calendar days after the appellant submitted the appeal.
- 5) If the appellant has requested a hearing, the appellant shall be provided with at least 10 calendar days advance written notice of the time and place of the hearing. Notice may be provided by e-mail.
  - a) The hearing shall be held within 14 calendar days of the date of the receipt of the request for review.
  - b) Failure of the appellant institution's representative to appear at a scheduled hearing shall constitute the appellant institution's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing.
  - c) A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and to answer questions posed by the review official.
  - d) The appellant may retain legal counsel or may be represented by another person.
- 6) The review official shall be independent of the original decision-making process;
- 7) Within 5 business days of the hearing, or within 5 business days after receipt of written documentation if no hearing is held, the review official shall make a determination based on a full review of the administrative record and on Program regulations. The hearing official shall inform the appellant of the determination by certified mail, return receipt requested.
- 8) The State Agency's action shall remain in effect during the appeal process. However, participating sponsors and sites may continue to operate under the Program during an appeal of termination unless the action is based on imminent dangers to the health or welfare of children. If the institution or facility has been terminated for this reason, the State Agency shall so specify in its notice of action. Institutions electing to continue operating while appealing terminations shall not be reimbursed for any meals served during the period of the appeal if the State agency's action is upheld.
- 9) The determination by the State review official is the final administrative determination to be afforded to the appellant.

## USDA Non-Discrimination Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. mail:  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or

2. fax:  
(833) 256-1665 or (202) 690-7442; or

3. email:  
[program.intake@usda.gov](mailto:program.intake@usda.gov)

This institution is an equal opportunity provider.

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