

State of Wisconsin
Department of Public Instruction
Appeals Procedures for School Nutrition Programs
Pursuant to 7 CFR 210.18 and Wisconsin Administrative Code § PI 1.11

Appellant Rights:

The School Food Authority (SFA) may appeal the Department of Public Instruction's (DPI) findings if the findings result in denial of all or a part of a claim for reimbursement or withholding of payment arising from administrative or follow-up review activity conducted by DPI. Pursuant to 7 CFR 210.18 and Wis. Admin. Code § PI 1.11, Appellants are afforded:

1. The right to a fair and impartial hearing before an independent official, at which they may be represented by legal counsel.
2. *Either* a review of the record with the right to file written information, *or* a hearing which they may attend in person.

Appeals Process:

1. *Notification of Denial*

DPI shall provide the SFA with a written notice sent by email and postal mail to the recipient's last known email and postal mail addresses, which shall include:

- a. Details for the grounds on which the denial of all or a part of the claim for reimbursement or withholding of payment is based.
- b. A statement indicating that the SFA may appeal.

2. *Request for Appeal*

In order to be considered, the SFA's request for appeal must:

- a. Be filed with the Office of Legal Services within 15 days of the date of the DPI's action on a form provided by the DPI. The request may be filed with the Office of Legal Services at the following address:

Office of Legal Services
Wisconsin Department of Public Instruction
125 S. Webster Street
PO Box 7841
Madison, WI 53707-7841

- b. Identify the name of the individual and/or entity which is filing the request and include their most current email and postal address. (for example, a request is filed on behalf of *[Institution Name]*, *[Authorized Representative name]* and/or *[Owner or Board President Name]*)
- c. Specify whether the appellant is requesting a review of the written record or a contested hearing. The review official will hold a hearing ONLY IF the appellant specifically requests an in-person hearing in the letter of request for review.

3. *Appeal Acknowledgement*

DPI will send written acknowledgement of the request for appeal to the independent hearing official, and copy the appellant, (to the e-mail and postal address included in the request for appeal) within 10 calendar days of receiving the written request for appeal from the SFA.

The DPI shall grant a request for desk review or contested case hearing if all of the following apply:

- a. the DPI has jurisdiction over the matter;
- b. the request for desk review or contested case hearing is made by a person or institution adversely affected by an action of the DPI under 7 CFR part 210, 215, or 220;
- c. the request is timely filed with the office of legal services; and
- d. the requester is entitled to a desk review or contested case hearing under Wis. Stat. § 227.42 and 7 CFR part 210, 215, or 220.

4. *Procedures and Timelines*

If the DPI grants a request for a desk review:

- a. DPI's action shall remain in effect during the appeal process.
- b. The appellant may retain legal counsel or may be represented by another person.
- c. Written materials that the parties want the hearing official to consider must be submitted to the hearing official within 30 calendar days of the date of DPI's acknowledgement of the appeal request. The hearing official has the discretion to provide the parties additional time or an opportunity to respond to the submissions.

- d. A written decision shall be issued by the hearing officer within 120 calendar days from the date that DPI received the request for appeal. The hearing official shall send the final decision to both the DPI and the appellant by e-mail and postal mail.
- e. The hearing official's decision is the department's final agency decision and will include a notification of the right to appeal the decision to circuit court.

If the DPI grants a request for a contested case hearing:

- a. DPI's action shall remain in effect during the appeal process.
- b. The appellant may retain legal counsel or may be represented by another person.
- c. The hearing official will provide notification via either e-mail or postal mail of the date, time, and place for the hearing.
- d. The hearing official shall provide the parties at least 10 calendar days notice prior to the date of the hearing.
- e. The hearing official shall set a schedule for the exchange of written materials, exhibits and witnesses.
- f. Failure of the appellant to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the hearing official. The hearing official may grant a request to reschedule the hearing for good cause only if the hearing official is provided with sufficient time to issue a timely decision.
- g. A representative of the department shall be allowed to attend the hearing to provide testimony, respond to the appellant's testimony, and to answer questions posed by the hearing official.
- h. A written decision shall be issued by the hearing officer within 120 calendar days from the date that DPI received the request for appeal. This deadline cannot be extended. The hearing official shall send the final decision to both DPI and the appellant by e-mail and postal mail.
- i. The hearing officer's decision is the department's final agency decision and will include a notification of the right to appeal the decision to circuit court.

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