

## **Fair Hearing Procedure - Free and Reduced-Price Meals or Free Milk For Determining, Verifying, and Hearing Officials**

Please read and file with copy of *USDA's Eligibility Manual for School Meals (July 2015 edition)*

Per the Permanent Agreement/Policy Statement that each school food authority (SFA) agrees to when completing the online contract with the Department of Public Instruction (DPI)-School Nutrition Team (SNT), each local educational agency (LEA) of a school participating in the National School Lunch Program, School Breakfast Program, or the Special Milk Program agrees to establish a hearing procedure that meets all of the requirements of USDA regulations 7 CFR 245.7. The Fair Hearing Procedure should be used when households appeal either a determination of benefits (the decision made by the LEA with respect to the households free and reduced price meal application) or a decision based on the verification of benefits (the continuation of benefits).

Prior to initiating the hearing procedure, the school official, the parent(s) or the guardian may request a conference to provide an opportunity for the parent(s)/guardian and school official(s) to discuss the situation, present information, obtain an explanation of data submitted in the application, and decisions rendered. Such a conference shall not in any way show prejudice nor diminish the right to a fair hearing. If the household appeals the adverse action within the 10 day advance notice period, the child who was determined to be eligible based on the face of the application submitted will continue to receive free or reduced price meals or free milk during the appeal and hearing.

The hearing procedure shall provide the following for both the household and the LEA:

- A simple, publicly announced method to make an oral or written request for a hearing;
- An opportunity to be assisted or represented by an attorney or other person;
- An opportunity to examine, prior to and during the hearing, any documents and records presented to support the decision under appeal;
- That the hearing shall be held with reasonable promptness and convenience, and that adequate notice shall be given as to the time and place of the hearing;
- An opportunity to present oral or documentary evidence and arguments supporting a position without undue interference;
- An opportunity to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;
- That the hearing shall be conducted and the decision made by a hearing official who did not participate in making the decision under appeal or in any previously held conference;
- That the decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record;
- That the parties concerned and any designated representative shall be notified in writing of the decision of the hearing official;
- That a written record shall be prepared with respect to each hearing, which shall include the challenge or the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefore, and a copy of the notification to the parties concerned of the decision of the hearing official; and
- That the written record of each hearing shall be preserved for a period of 3 years and shall be available for examination by the parties concerned or their representatives at any reasonable time and place during that period.