

APPEAL PROCEDURES FOR DAY CARE HOMES

All family day care home providers who receive a notice of intent to terminate and disqualify participation in the Child and Adult Care Food Program (CACFP) for cause have the right to appeal that termination and disqualification and request an administrative review appeal. An appeal is a process by which an impartial hearing official reviews information provided by the CACFP Day Care Home Sponsoring Organization (SO) and the family day care home provider to determine if procedures were followed and were within the federal and state laws, regulations, policies, and procedures governing the CACFP. The procedure for an appeal follows.

Purpose

The CACFP appeal procedure allows day care home providers participating in the program an avenue for appealing the action of their CACFP SO.

A provider may appeal (request an administrative review) when the CACFP SO:

1. Proposes termination of the provider's program participation
2. Proposes to disqualify the provider from future CACFP participation
3. Suspends the provider's agreement for program participation

Procedure

Notification, request, and procedure for hearing:

1. Whenever the SO takes action that will affect the participation of a provider in the CACFP, the SO will inform the provider in writing of the action and the grounds upon which its decision is based. The SO will advise the provider of their right to appeal.
2. Upon receipt of the letter of proposed termination, the provider must submit to the SO a written request for appeal postmarked no later than 10 calendar days from the date the notice of proposed termination was received by the provider. The original and one copy of the appeal request must be sent to the SO via certified mail. The address is as follows:

Food For Kids, Inc.
Attention Teresa Blake
P.O. Box 33070
Reno, NV 89533

The SO will forward the original copy of the appeal request to the hearing official via certified mail or the provider can contact the hearing office by email at FFKappeal@gmail.com. The hearing official will acknowledge receipt of the

request for appeal to both the provider and the SO within ten calendar days. This notice must be in writing.

The hearing official must be independent and impartial. This means that, although the hearing official may be an employee or board member of the sponsoring organization, he or she must not have been involved in the action that is the subject of the appeal or have a direct personal or financial interest in the outcome of the appeal.

If the hearing official is an employee of the sponsor, he or she may not occupy a position in which he or she is potentially subject to undue influence from the individual responsible for the sponsoring organization's action, nor may he or she occupy a position in which he or she may exercise undue influence on the individual responsible for the action.

3. The provider may refute the charges (show they are false) by providing written documentation to the hearing official. In order for the provider's request for an appeal to be considered, written documentation must be filed with the hearing official within ten calendar days of the request for appeal. The SO will forward the information to the hearing official no later than five calendar days after the additional written documentation is filed with the SO. The hearing official will review only the written documentation/record.
4. This is not an in-person hearing, and only written records are reviewed by the hearing official at this time. If this process goes further, then an in-person hearing will occur if requested.
5. Any information on which the sponsor's action was based will be available to the provider for review. The hearing official will make copies of this information available to the provider, if necessary.
6. The hearing official will make a decision based solely on information provided by the SO, the provider, and on program regulations, federal and state laws, and procedures governing the CACFP and sponsor provider agreement.
7. The provider, the SO's executive director, and the Nevada Department of Agriculture (NDA), must be notified in writing of the hearing official's final decision within 30 days from the date of receipt of the request for appeal. This timeframe is an administrative requirement and may not be used as a basis for overturning a termination if a decision is not made within the specified timeframe.
9. The provider may continue to operate during an appeal of proposed termination unless there is evidence of eminent threat or danger to the health or safety of the children or the public.
10. Providers continuing to operate while appealing the proposed termination will be reimbursed for any eligible meals served during the period of the appeal.
11. During the period of the review by the hearing official, the SO will not take action to collect or offset any overpayment noted in the termination letter.

12. The decision by the hearing official is the final administrative decision. There is no further opportunity to appeal to the NDA.
13. If the provider loses the appeal, the termination date of the agreement is the date of the hearing official's decision.
14. The provider will be placed on the National Disqualified List of Providers for a period of seven years, or until such time that the SO, in consultation with NDA, determines that the SDs have been corrected. However, if any debt relating to the SDs has not been repaid, they will remain on the list until the debt has been repaid.