



Department of Education

Mike DeWine, Governor
Paolo DeMaria, Superintendent of Public Instruction

To: School Food Authorities Participating in the National School Lunch Program (NSLP)

From: Andrea Denning, Director
Office of Integrated Student Supports

Date: February 6, 2019

Re: Withholding Payments from a School Food Authority (SFA)

Introduction

This policy outlines the circumstances under which the state agency may withhold payments from a School Food Authority (SFA).

SFAs participating in the National School Lunch Program (NSLP) are required to comply with all program regulations. Per federal regulations, the state agency is required to withhold funds from an SFA who fails to comply with program regulations ([7 CFR 210.24](#)).

Per federal regulations (7 CFR 210.18), critical areas mean the following two performance standards:

- All free, reduced price and paid school meals claimed for reimbursement are served only to children eligible for free, reduced price and paid school meals, respectively; and are counted, recorded, consolidated and reported through a system which consistently yields correct claims; and
- Reimbursable lunches and breakfasts meet the meal requirements as applicable to the age/grade group reviewed.

Policy

Per program regulations, the Ohio Department of Education (ODE), as the state agency, must withhold program payments from an SFA under the following circumstances:

1. The SFA fails to provide documented corrective action for critical area violations identified during an administrative review within the deadlines specified by the state agency.
2. The state agency finds that corrective action for a critical area violation identified during an administrative review was not completed.

Per program regulations, the ODE may withhold program payments from an SFA under the following circumstances:

1. The state agency found a critical area violation on a previous review and the school food authority continues to have the same error for the same cause.
2. The SFA fails to provide documented corrective action for general area violations identified during an administrative review within the deadlines specified by the state agency.
3. The state agency finds that corrective action for a general area violation identified during an administrative review was not complete or corrective action was not taken as specified in the documented corrective action.
4. The SFA fails to comply with program regulations or requirements outside of the administrative review.

In all cases, program payments must be withheld until corrective action is completed, documented corrective action is received and deemed acceptable by the state agency, or the state agency completes a follow up review and confirms that the problem has been corrected. Subsequent to the state agency's acceptance of the corrective actions, payments will be released for all meals served in accordance with the provisions of this part during the period the payments were withheld. In very serious cases, the state agency will evaluate whether the degree of non-compliance warrants termination in accordance with program regulations.

The state agency will maintain documentation of any withholding of payments and notify the SFA. A SFA may appeal the state agency's decision to withhold payments. The state agency will provide a complete copy of the appeal procedure to the SFA as part of the notification of withholding of payments.