

Ohio Department of Education ~ Office of Nutrition
NATIONAL SCHOOL LUNCH PROGRAM, SCHOOL BREAKFAST PROGRAM AND SEAMLESS
SUMMER OPTION APPEAL PROCEDURES

The Ohio Department of Education (“ODE”), Office of Nutrition, is the agency charged with administering the National School Lunch Program and School Breakfast Program (NSLP, SBP). Pursuant to 7 CFR 210 and 220, ODE may take certain actions to assure a participating institution’s compliance with the NSLP/SBP. Except for FNS-conducted reviews authorized under Section 210.29(d)(2), the following ODE activities are subject to administrative review (appeal): denial of all or a part of the Claim for Reimbursement or withholding payment arising from administrative or follow-up review activity conducted by the State agency under Section 210.18 of this part.

All requests for appeal (“Appeal Request”) by an institution must be made in writing and must specifically state whether the Appellant is requesting an in-person hearing, or whether the Appellant plans to submit written documentation only. The appeal must be postmarked by the U.S. Postal Service or delivered **no later than fifteen (15) calendar days** following receipt of written notification of action (“Action Letter”). If the fifteenth day falls on a Saturday, Sunday or federal legal holiday, the request may be postmarked or delivered on the next day that is not Saturday, Sunday or a federal legal holiday. All Appeal Requests should be sent to: **Office of Legal Counsel, Ohio Department of Education, 25 South Front Street, Mail Stop 607, Columbus, Ohio 43215-4183.**

ODE will acknowledge receipt of the Appeal Request in writing **no later than ten (10) calendar days** after its receipt. If the tenth day falls on a Saturday, Sunday or federal legal holiday, the request may be postmarked or delivered on the next day that is not Saturday, Sunday or a federal legal holiday. ODE’s letter acknowledging receipt will indicate the date upon which the Appeal Request was received by ODE. Also, upon receipt of the Appeal Request, ODE will assign an independent and impartial administrative review official to conduct an administrative review pursuant to 7CFR 210.18(p). The institution may retain legal counsel or be represented by another person.

As stated above, if the Appellant would like an actual hearing to be held, in lieu of, or in addition to a review of the written information, the institution must specifically request a hearing in its written Appeal Request. If a hearing is not requested, the appellant may refute the action specified in the notice in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official not later than 30 calendar days after the appellant received the notice..

If a hearing is requested, the Appellant and ODE shall be given **at least 10 calendar days** advance written notice of the hearing time and place by certified mail, return receipt requested. If the Appellant’s representative(s) fail to appear at a scheduled hearing, the Appellant thereby waives its right to a personal appearance before the administrative review official. Scheduled hearings may be rescheduled if the Appellant institution notifies the administrative review official prior to the hearing date, and the review official agrees to reschedule.

Within **60 calendar days** after ODE receives the Appellant’s request for review or hearing, the administrative review official shall inform both ODE and the Appellant of his/her final decision. This timeframe is an administrative requirement for ODE and may not be used as a basis for overturning the State agency’s action if a decision is not made within the specified timeframe.

Additional Conditions

- Any information upon which the ODE Action Letter was based shall be available to the Appellant for inspection from the date ODE receives the Appeal Request.
- An ODE representative may attend the hearing. The ODE representative may respond to testimony and answer questions of the administrative review official.
- The administrative review official shall be an independent and impartial official, not accountable to any person authorized to make decisions subject to appeal under 7CFR 210.18(p)
- The administrative review official shall make a determination based on information provided by ODE, the Appellant and NSLP regulations.
- ODE's action shall remain in effect during the appeal process. Reimbursement claims for eligible meals and allowable administrative costs will continue to be paid to the Appellant institution, provided that the validity of the claims can be substantiated. However, if ODE determines that the Appellant institution or facility poses an imminent threat to the health and safety of its participants, or poses a threat to the health and safety of the public, ODE will immediately suspend the program operation without the opportunity for corrective action. Reimbursement will be withheld until the outcome of the administrative review.
- The determination by the administrative review official is the final administrative determination afforded to the Appellant.

Revised 7/13/2023