



OFFICE OF NUTRITION – SUMMER FOOD SERVICE PROGRAM APPEAL PROCEDURES

The Ohio Department of Education and Workforce (“the Department”), Office of Nutrition is the state agency charged with administering the Ohio Summer Food Service Program (“SFSP”).

1. ACTIONS WHICH CAN BE APPEALED TO OHIO DEPARTMENT OF EDUCATION AND WORKFORCE, OFFICE OF NUTRITION

A Summer Food Service Program sponsor may appeal adverse program administrative actions through a formal review process. 7 CFR 225.13 describes the procedures for a sponsor to appeal adverse actions which may be taken against a sponsor by the state agency. Such actions are listed below:

ACTIONS WHICH CAN BE APPEALED TO STATE AGENCY BY SUMMER FOOD SERVICE PROGRAM SPONSOR

- a. Denial of the application for participation;
- b. Denial of a request for an advance payment;
- c. Denial of a timely claim submittal for reimbursement;
- d. Denial by the state agency to forward to FNS an exception request from the sponsor for payment of a late claim or a request for an upward adjustment of a claim;
- e. Claims against a sponsor for remittance of a payment;
- f. Termination of the participation of a sponsor or sponsor's site;
- g. Denial of a site application;
- h. Fines established against a sponsor or its site for committing acts under 7 CFR 225.18(k)(1).

The Department action shall remain in effect during the appeal process. However, participating sponsors and sites may continue to operate under the program during an appeal of termination. If the appeal results in overturning the Department's decision, reimbursement shall be paid for meals served during the appeal period. However, such continued operation under the program shall not be allowed if the Department's action is based on imminent danger to the health or welfare of children. If the sponsor or site has been terminated for this reason, the Department shall so specify in its notice of action.

Appeals are not allowed on decisions made by the Food and Nutrition Service with respect to late claims or upward adjustments under 7 CFR 225.9(d)(5).

2. PROCEDURE FOR FILING AN APPEAL (7 CFR 225.13(b))

The sponsor shall be advised in writing of the grounds upon which the Department based the action. The written notice of action, which shall be sent by email or mail, read receipt requested, shall also include a statement indicating that the sponsor has the right to appeal the action of the Department. All appeal requests must be sent within 10 days from the date on which the notice of action is received to: Office of Legal Counsel, Ohio Department of Education and Workforce, 25 South Front Street, Mail Stop 607, Columbus, OH 43215-4183. Email submissions: Jessica.Oldham@education.ohio.gov

If the tenth day falls on a Saturday, Sunday or federal legal holiday, the request may be postmarked or emailed on the next day that is not Saturday, Sunday or a federal legal holiday, the Department will acknowledge receipt of the Appeal Request in writing no later than ten (10) calendar days after its receipt. The Department's letter acknowledging receipt will indicate the date upon which the Appeal Request was received by the Department.

3. CONTENTS OF A REQUEST FOR REVIEW

A written request for review must clearly identify the Department action being appealed and be signed by a responsible representative of the appellant. A photocopy of the Department notice of adverse action must accompany each request for review.

An appellant may respond to the charges contained in the Department notice of adverse action by filing supporting documentation with its request for review or indicate in its request that such documentation will be filed with the Department within seven calendar days after submitting its request for review. An appellant shall be afforded the opportunity to review any information upon which the adverse action was based.

4. REQUESTING A HEARING

An appellant may request a hearing before the review officer in addition to, or instead of, a review of documentation submitted by the appellant, only if the appellant specifically asks for such a hearing in its letter appealing the action. An appellant may retain legal counsel or be represented by another person at the hearing.

Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the Department shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official.

If the appellant has requested a hearing, the appellant and Department will be provided with at least 5 days advance written notice, sent by email, read receipt requested, of the time and place of the hearing.

The hearing shall be held within 14 days from the date the Department receives the request for review but not before the appellant's written documentation is received by the Department.

5. THE REVIEW OFFICER'S DETERMINATION

The review officer will be a third party independent from the original decision-making process. The review officer shall make a decision to uphold, reverse or modify the Department's action based on a full review of the documentation and information provided by the appellant and the Department, and on program regulations. The review officer's written determination shall be sent to the appellant and to the Department by email, read receipt requested, within five working days after the close of the hearing, or within five working days after receipt of the appellant's supporting documentation if no hearing is conducted.

The Department's action shall remain in effect during the appeal process. However, participating sponsors and sites may continue to operate under the program during an appeal of termination. If the appeal results in overturning the Department's decision, reimbursement shall be paid for meals served during the appeal period; however, such continued operation under the program shall not be allowed if the Department's action is based on imminent reason, the Department shall so specify in its notice of action, the review officer's determination is the final administrative determination to be afforded the appellant and is effective upon receipt by the appellant.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local)

where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992.

Submit your completed form or letter to USDA by:

MAIL:

U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW
Washington, D.C. 20250-9410

FAX:

(202) 690-7442

EMAIL:

program.intake@usda.gov

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