



APPEALS PROCESS FOR CACFP FAMILY CHILDCARE TERMINATION AND DISQUALIFICATION

Child Care Resource Center (CCRC), the United States Department of Agriculture (USDA) and the Ohio Department of Education and Workforce recognize the right of all individuals to appeal termination from the Child and Adult Care Food Program (CACFP). Family Childcare Appeals Procedure process mandates that every participating family daycare home follows the same standardized review steps. This uniform process promotes equality, transparency and compliance for all Providers.

Termination from this program occurs because of one of two types of situations:

1. Failure to correct a Serious Deficiency in CACFP program operations.
2. Imminent Threat to Health and Safety.

Failure to correct a Serious Deficiency in CACFP program operations.

A CACFP proposal to terminate and disqualify action is taken when:

- The family childcare (FCC) provider does not submit a Serious Deficiency Correction Plan,
- The FCC provider's submitted Serious Deficiency Corrective Action Plan was not acceptable on how to implement permanently and completely correcting the area(s) of non-compliance, or
- There has been no attempt by the FCC provider to follow their approved corrective action plan to permanently and completely correct the serious deficiency(ies) in their CACFP program operations.

When this happens, the FCC provider will receive a “**Notice of Propose to Terminate and Disqualify**” and place on the National Disqualified List (NDL). This notice will state the nature of the situation warranting the proposed termination and disqualification, including a timeline of events and the FCC provider's actions that lead up to this. The FCC provider may continue to participate and receive CACFP Program reimbursement for eligible meals served until a requested appeal has concluded; If the appeal is upheld, claims with valid records will be honored.

Imminent Threat to Health and Safety

The serious deficiency identified is the imminent threat to the health or safety of CACFP participants or the public children in a FCC provider's care or to the general public, the FCC provider will be declared seriously deficient and receive a “**Notice of Propose to Terminate and Disqualify**” and be placed on the National Disqualified List (NDL). Because of this imminent risk, the sponsoring organization would suspend your CACFP participation (including all Program payments). The suspension of CACFP participation (including all Program payments) will take effect on the date of the ‘Notice of Propose to Terminate and Disqualify’ letter, pursuant to 7 CFR 226.16(l)(4).

The suspension will remain in effect during the period of any appeal. However, if you request an appeal and the hearing official overturns the suspension, all valid claims for reimbursement submitted by you for the period of the suspension will be paid. As always, the sponsoring organization will deny any portion of a claim that is determined to be invalid.

If you appeal the proposed termination and disqualification, these actions will not take effect until the hearing official issues a decision. If you do not make a timely request for an appeal, your agreement will be terminated for cause on the date outlined in the notification. You will be disqualified from future CACFP participation and your name is placed on the NDL.

Notification Process

Providers will be notified via email, USPS and/or certified mail of the intent to terminate and of all appeal decisions. Providers will have access to all non-compliance findings and responses. This Appeals Procedure is attached to all, **“Notice of Proposed Termination and Disqualification”** or **“Notice of Serious Deficiency, Suspension, and Proposed Termination and Disqualification for Providers”**.

Making an Appeal

Appeals must be made, in writing, to Child Care Resource Center and must specifically state whether the Provider is requesting an in-person hearing, or whether the Provider plans to submit written documentation only. The appeal must be postmarked by the U.S. Postal Service or delivered to the CCRC **no later than ten (10) calendar days** following receipt of the **“Notice of Propose to Terminate and Disqualify”**. 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. Failure to do will result in loss of the right to appeal. The appeal must include all information, timelines and comments you wish to bring before the appeals committee. The appeal should also include your name, signature, address, phone number and the action you wish to come about as a result of the appeal.

The CCRC will acknowledge receipt of the Appeal Request **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 on the next day that is not Saturday, Sunday or a federal legal holiday. Your appeal is reviewed by the CCRC’s Appeal Committee. Using your appeal information, Child Care Resource Center’s information and CACFP regulations, the hearing official will make a determination regarding the appeal. All appeals should be sent or delivered to:

***Child Care Resource Center
Appeals Committee
5350 Oberlin Avenue
Lorain, Ohio 44053***

The Appeals Committee consists of impartial person(s), who are not involved in the action(s) of the Provider of this administrative review, or have a direct personal or financial interest in the outcome. This prevents any conflict of interest to the Provider. The Appeal Committee will use information provided by the Child Care Resource Center, the Family Child Care Provider and following USDA’s Serious Deficiency guidelines.

The committee will meet within (45) days of receiving the appeal request. **As stated above, if the Provider would like an in-person hearing to be held, in lieu of, or in addition to a review of the written information, the provider must specifically request an in-person hearing in its written Appeal Request.** Providers have a right to have legal counsel or other representative, if they choose, at their Appeal. If an in-person hearing is requested, the Provider shall be given at least (10) calendar days advance notice of the hearing time and place. If the Provider fails to appear at a scheduled hearing, they waive their rights to a personal appearance before the CACFP Appeals Hearing Official. If an in-person hearing is not requested in the written Appeal Request, the CACFP Appeals Hearing Official will only review and consider written information submitted within forty-five (45) days after receipt of the provider’s request for appeal. You will be notified of their decision, in writing, within two (2) weeks of their meeting. The Appeal Committee’s decision is final. You may not appeal the termination for cause or the disqualification.

If the Child Care Resource Center's decision is upheld, the USDA, through the Ohio Department of Education and Workforce, will be notified and your name will be placed on the National Disqualified List (NDL). While on the NDL, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in any CACFP institution or facility. You will remain on the NDL unless USDA's Food and Nutrition Service, in consultation with Ohio Department of Education and Workforce determines that the serious deficiencies have been corrected, until seven years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt is repaid. Documents submitted to the Appeals Committee, along with their determination, are sent to the Ohio Department of Education and Workforce and are maintained on file at the CCRC.

If the hearing official upholds your appeal, you will be reinstated as active in CACFP and will be able to continue receiving reimbursement for any valid claims received. You must still implement policies and procedures to permanently and completely correct the serious deficiency(ies). Upon approval of an acceptable corrective action plan, the CCRC will temporarily defer the determination that you are seriously deficient. If the CCRC initially determines that the corrective action is complete but later determines that the serious deficiency(ies) has reoccurred, the CCRC must move to immediately issue you a Notice of Propose to Terminate and Disqualify.

USDA Nondiscrimination Statement: In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:** U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW, Mail Stop 9410
Washington, D.C. 20250-9410;
2. **fax:** (202) 690-7442; or
3. **email:** program.intake@usda.gov.

This institution is an equal opportunity provider.

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