

# SERIOUS DEFICIENCY PROCESS FOR SPONSORS OF UNAFFILIATED CENTERS

CACFP Policy 09-01

## **Purpose**

To set forth the serious deficiency process to be followed by sponsors of unaffiliated centers

## **Scope**

This applies to sponsors of unaffiliated centers participating in the Child and Adult Care Food Program (CACFP). An unaffiliated center is defined as any of the following center-type facilities that are not part of the legal organization of the CACFP sponsor: licensed centers, unlicensed registered day care ministries, outside-school-hours programs, at-risk after school meals programs, emergency/homeless shelters, and adult day care centers

## **Description**

### Serious Deficiency

Sponsoring organizations (SO) will follow the same regulatory process used for family day care home providers. When serious deficiencies are identified in a sponsored center, a Notice of Serious Deficiency shall be issued. Serious deficiencies may include any of the following:

1. Submission of false information on the application
2. Submission of false claims for reimbursement
3. Simultaneous participation under more than one sponsoring organization
4. Non-compliance with the CACFP meal pattern
5. Failure to keep required records
6. Conduct or conditions that threaten the health or safety of the children/adults in care, or the public health and safety
7. A determination that the principals have been convicted of any activity that occurred during the past seven years that indicated a lack of business integrity, including fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements; receiving stolen property; making false claims; obstruction of justice; or any other activity indicating a lack of business integrity as defined by the State Agency, or the concealment of such a conviction
8. Failure to participate in annual training
9. Any other circumstance related to non-performance under the Sponsor/Center/Ministry agreement

### Corrective Action

The Notice of Serious Deficiency shall specify the serious deficiency(ies), the responsible principals/individuals, the required corrective action, and the time allotted to correct the serious deficiency(ies) (as soon as possible, but not to exceed 30 days). A copy of this notice must be provided to the State Agency.

If the center and responsible principals/individuals correct the serious deficiency(ies) to the satisfaction of the SO, the sponsor shall send a Notice of Temporary Deferment to the center. A copy of this notification must be provided to the State Agency.

## Serious Deficiency Process for Sponsors of Unaffiliated Centers

### Termination

If the center and responsible principals/individuals fail to fully and permanently correct the serious deficiency(ies) within the allotted time, the SO shall propose to terminate the center's agreement and disqualify the responsible principals/individuals. The Notice of Proposed Termination and Disqualification must include notice that the center, principals, and responsible individuals may appeal its proposed termination. The center may continue to participate and receive CACFP benefits during the course of the appeal process. However, should the center voluntarily terminate the agreement after receipt of this notice, the SO shall continue with the termination process. A copy of this notice must be provided to the State Agency.

If the center and responsible principals/individuals do not appeal in the required time, the SO shall send the Notice of Termination (using the state agency letter template). A copy must be sent to the State Agency.

### Imminent Threat to Health and Safety

If a state or local health or licensing official cites a center for serious health or safety violations, CACFP sponsors must initiate the suspension process using the same regulatory process used for family day care home providers. While a state or local citation may be used to initiate action affecting CACFP participation, CACFP processes including serious deficiency, suspension, and appeals are separate from state and local actions. Regardless of state or local actions (including when a revoked license is reinstated), the CACFP processes must be followed and continued.

Steps taken when an imminent threat to health or safety is cited:

1. The sponsor shall send a Notice of Serious Deficiency, Suspension, and Proposed Termination and Disqualification to the facility, principals, and responsible individuals. This notice shall include administrative review (appeal) procedures and notice that claims should continue to be submitted to the sponsor, but will be held and unpaid pending the outcome of an appeal.
- 2a. If the administrative review officer does not uphold the proposed termination and disqualification, the sponsor will send a Notice of Temporary Deferment. The facility, principals, and responsible individuals may continue to participate in CACFP and will receive payment for any valid claims for reimbursement that were held.
- 2b. If an administrative review is not requested or the administrative review officer upholds the proposed termination and disqualification, the sponsor shall issue a Notice of Termination and Disqualification. The sponsor shall also instruct the State Agency to add the facility, principals, and responsible individuals to the National Disqualified List (NDL). Neither the claims held during the suspension nor any further claims will be processed.

Examples of an imminent threat to health or safety include:

- Failure of a facility's fire detection or prevention system
- Inadequate or incompetent supervision
- Providing care for more children than the licensed capacity allows
- Unsanitary conditions for food service or unsanitary water
- Inadequate light, ventilation, sanitation, or heating
- Lost or missing person

## Serious Deficiency Process for Sponsors of Unaffiliated Centers

- Suspected maltreatment of a person in care
- Suspected sexual, physical, or emotional abuse of any person occurring while they are on the premises of the CACFP participating facility
- Injuries requiring medical or dental care
- Illness or injuries requiring hospitalization or emergency treatment
- Mental health emergencies
- Health and safety emergencies involving parents or guardians and visitors to the CACFP participating facility
- Death of a person in care or staff member (including a death that occurred outside of care hours that had resulted from serious illness or injury at the CACFP participating facility)
- The presence of a threatening individual who attempts or succeeds in gaining entrance to the facility

### The National Disqualified List

Upon termination, the facility, principals and responsible individuals will be placed on the National Disqualified List. Once included in the list, they will remain on the list for seven (7) years or until such time as the State agency determines that the serious deficiencies that led to its placement on the list have been corrected. If there is an outstanding debt to the program, they will remain on the list indefinitely or until CACFP funds have been repaid.

### **Sources**

Indiana Department of Education, School and Community Nutrition