

INDIANA SERIOUSLY DEFICIENT DETERMINATIONS

PURPOSE: To outline the instances when the seriously deficient determination can be made.

SCOPE: Organizations participating in the Child and Adult Care Food Program (CACFP).

DESCRIPTION: A **Serious Deficiency** is a non-compliance that is a violation of Federal regulations and/or a violation that impacts financial viability, organizational capability and internal controls. Failure to correct serious deficiencies will result in termination from the CACFP.

The following are the regulatory list of grounds for serious deficiencies, with examples under each. The regulation language specifies that the list is **not** inclusive.

1) **Noncompliance with the applicable bid procedures and contract requirements of Federal child nutrition program regulations.**

Examples:

- *Failure to competitively procure goods and services*
- *Anti-competitive practices, such as collusion, kick-backs, conflicts of interest*
- *Inclusion of non-competitive provisions in a bid, e.g., "successful bidder for a contract to provide meals must establish a scholarship fund"*

2) **The submission of false information to the State agency.**

Examples:

- *Failure to disclose ineligible officers, directors, key employees*
- *Listing fictitious employees/officers/board members on application*
- *Claiming tax-exempt status when denied, rescinded, etc.*
- *Submitting the IRS tax-determination letter of a different or even defunct organization*
- *Claiming non-existent/non-participating/non-approved facilities or children*
- *Inflated meal counts*
- *Claiming unallowable, inflated, and/or nonexistent costs*
- *Claiming costs disallowed or not included in the approved*

budget

- *Claiming costs for fictitious employees*
- *Any information submitted to the State agency that does not accurately reflect the institution's operations*

3) **Failure to return to the State agency any advance payments which exceed the amount earned for serving eligible meals, or failure to return disallowed start-up payments.**

4) **Failure to maintain adequate records.** Examples:

- *Records not available on site*
- *Missing/incomplete/different amounts or payees for invoices, receipts, cancelled checks, inventories resulting in false/inflated/unsubstantiated claimed costs*
- *Cost records not maintained according to generally accepted accounting principles resulting in false/inflated/unsubstantiated claimed costs*
- *Missing/incomplete enrollment rosters and/or applications for free and reduced-price meals*
- *Missing/incomplete attendance records*
- *Missing/incomplete menu and infant feeding records*
- *Missing/incomplete meal participation records*

5) **Failure to adjust meal orders to conform to variations in the number of participants.** Example:

- *Inflated meals claimed most often equals meals ordered*

6) **The claiming of Program payments for meals not served to participants.** Examples:

- *Claiming meals in excess of participation in family-style service*
- *Claiming meals in excess of participation plus reasonable seconds for unitized/cafeteria style meal service*
- *Claiming meals delivered as meals served to participants*
- *Claiming meals served to non-existent children*
- *Claiming meals served to non-enrolled children and adults*
- *Inflating facility meal claims*
- *Claiming non-existent and non-approved facilities*
- *Claiming meals for ineligible facilities (unlicensed/not registered)*
- *Knowingly claiming dual participating facilities*
- *Claiming the same participant for the same meal at more than one facility*

7) **Service of a significant number of meals which did not include required quantities of all meal components.** Examples:

- *Incorrect determination of serving sizes for the grain/bread component*
 - *Insufficient milk served based on calculations from the milk inventory and milk calculation sheets*
- 8) **Continued use of food service management companies that are in violation of health codes.**
- 9) **Failure of a sponsoring organization to disburse payments to its facilities in accordance with its management plan.** Examples:
- *Checks prepared after 5 days*
 - *Payments sent without endorsements or otherwise incomplete*
 - *Payments made for other than the full amount the facility is entitled to receive*
 - *Payments made to a facility other than the facility that earned the payment*
 - *Payments made to the entity/person other than the facility (without express written permission of the facility)*
 - *Checks not mailed within 5 day time-frame or first business day thereafter*
 - *Failure to transfer full amount of facility payments to payment bank account within 5 day time-frame*
 - *Failure to maintain full amount of facility payment in commingled bank account until checks clear*
 - *Using administrative or provider advance funds to pay ineligible facilities/providers*
 - *Using provider reimbursement funds to pay provider advances*
 - *Using day care home funds (advance or reimbursement) to pay sponsored centers and vice versa*
 - *Retaining sponsored center funds in excess of the amount approved in the management plan*
- 10) **A history of administrative or financial mismanagement in any Federal child nutrition program.** Examples:
- *Sponsor left SFSPC because of a serious documented problem in its operation*
 - *Repeated instances of failing to maintain required corrective action*
 - *Sponsor terminated for serious deficiency in one part of the CACFP (adult care) applies to administer a different part (day care homes)*
- 11) **The claiming of Program payment for meals served by a proprietary Title XIX or Title XX center during a calendar month in which less than 25 percent of enrolled participants were**

Title XIX or Title XX beneficiaries.

Some examples of situations in which a problem would rise to the level of a serious deficiency, but that is not included specifically in the regulatory list:

- *A principal in the sponsoring organization indicted for fraud relating to the program*
- *A principal in the organization being convicted of crime in which the underlying facts involve a crime of dishonesty (e.g., forgery)*
- *A principal in the organization suspended, proposed for debarment or debarred*
- *A single incident of CACFP funds being misused (other than a minor violation; e.g., when a sponsor believes that a particular cost will be allowed but it is ultimately disallowed—this is a serious deficiency only if sponsor failed to include cost in budget)*
- *A single incident of serious mismanagement (e.g., failure to monitor properly)*
- *Failure to obtain a required audit*
- *Failure to notify State agency of change in IRS status*
- *Violations of IRS regulations*
- *Failure to remit periodic payments (required by statute or regulations) to regulatory agencies (i.e. employee withholding for income taxes, social security, unemployment compensation)*
- *Failure to follow up/require and maintain corrective action for facility review findings*
- *Altering monitoring review findings*
- *Creating fictitious records*
- *Failure to comply with State incorporation requirements*
- *Paying employees' salaries based on the number of homes recruited/paying recruitment bounties or bonuses*
- *Inaccurate tiering determination*
- *Improper use of expansion funds*
- *Use of provider funds for administrative expenses*
- *Failure to properly train and/or monitor facilities*