

Summer Food Service Program Appeal Procedure

This appeal procedure is included with the findings or closure letter regarding any appealable action taken by the Indiana Department of Education (IDOE) in its administration of the Summer Food Service Program (SFSP). An organization that sponsors the SFSP (Sponsor) must follow this procedure to appeal an IDOE action.

IDOE actions subject to appeal are:

1. Denial of an application for Sponsor or a site to participate in the program.
2. Denial of a request for an advance payment.
3. Denial of a claim for reimbursement (except for late submission under 7 CFR (Code of Regulations) 225.9(d) (5)).
4. Refusal to forward to the U.S. Department of Agriculture (USDA) an exception request for payment of a late claim or a request for an upward adjustment to a claim.
5. A claim against a sponsor for remittance of an overpayment.
6. Termination of Sponsor or a site.
7. Denial of a sponsor's application for a site.

The IDOE action being appealed remains in effect during the appeal process. Sponsor may continue to operate the program during the appeal process unless the IDOE action is based on imminent danger to the health or welfare of children, as specified in IDOE's notice of action. If the IDOE action is termination of Sponsor from program participation for reasons other than imminent danger to the health or welfare of children and the appeal results in overturning the termination, reimbursement shall be paid after the appeal decision for meals served during the appeal process.

PROCEDURE

1. **Notice of Action:** When IDOE takes an action against a Sponsor that is subject to appeal according to program regulations (7 Code of Federal Regulations 225), IDOE sends notice of the action, and the grounds upon which the action was based, to Sponsor by certified mail – return receipt requested. IDOE advises Sponsor that it has the right to appeal the IDOE action. A notification is considered delivered to the Sponsor five days after being sent to the addressee's last known mailing address as reported within the IDOE CNPweb database.
2. **Request for Appeal:** Sponsor may appeal the IDOE action by submitting an appeal request in writing not later than 15 days after the date that Sponsor received the notice of action to: **Director, School and Community Nutrition, Indiana Department of Education, 115 West Washington Street, South Tower, Suite 600, Indianapolis, IN 46204**. The request for an appeal will not be accepted by email or facsimile. IDOE will acknowledge the receipt of an appeal request within 10 days of its receipt of the request by certified mail, return receipt requested.

Sponsor's written appeal request must include the following information:

- a. A full description of the IDOE action or actions that are being appealed.
- b. Name, address, telephone number and, if available, e-mail address, for the person authorized to file the appeal request for the Sponsor.
- c. An indication whether Sponsor is requesting that a hearing be held in addition to, or in lieu of, a review of written information. If Sponsor does not specifically request a hearing, the appeal will be based on a review of the written information.
- d. Written documentation in support of the Sponsor's appeal may be submitted with the appeal request or within seven (7) days of the appeal request.
- e. The appeal request must be signed and dated.

IDOE strongly recommends that Sponsor send an appeal request, and any other documentation, in a manner that provides Sponsor with proof of receipt such as certified mail, return receipt requested.

3. **Representation:** Sponsor may retain legal counsel or may be represented by another authorized person.
4. **Review of Record:** IDOE will make available, from the date that IDOE receives the appeal request, any information on which the IDOE action was based.
5. **Opposition and Submission of Written Documentation:** Sponsor may refute the findings contained in the notice of action either in person, if a hearing was requested, or by submitting written documentation to the Review Official. To be considered, written documentation must be submitted to the address outlined above within seven (7) days of submitting the appeal request, must clearly identify the IDOE action being appealed, and must include a photocopy of the original notice of action issued by IDOE.
6. **Hearing:** If a hearing is requested, the hearing must be held no later than 14 days after receipt of the appeal request. Sponsor will be provided with at least five (5) days advance notice of the time and place of a hearing by certified mail, return receipt requested.

Prior to the hearing, the Review Official will review all written information submitted by Sponsor.

IDOE representative(s) shall be allowed to attend the hearing to respond to Sponsor's testimony and written information and to answer questions from the Review Official.

If Sponsor's authorized representative fails to appear at a scheduled hearing, Sponsor waives the right to a personal appearance before the Review Official, unless the Review Official and IDOE agree to reschedule the hearing.

7. **Decision Without a Hearing:** No hearing will be held and the Review Official will base its decision on a full review of the administrative record if Sponsor:
 - Did not request a hearing in accordance with the requirements in Section 2 of this procedure, or
 - Waived the right to a hearing by failing to appear at a scheduled hearing as described in Section 6 of this procedure.
8. **Review Official:** The Review Official is appointed by the IDOE as required in 7 Code of Federal Regulations § 225.13(b). The Review Official will be independent, impartial, and not accountable to any person authorized to make decisions that are subject to appeal.
9. **Decision:** The Review Official will make a determination based solely on the information provided by IDOE, the Sponsor and program regulations.

Within five (5) working days after the hearing, or within five (5) working days after receipt of written documentation if no hearing is held, the Review Official makes a determination based on a full review of the administrative record and informs Sponsor of the decision by certified mail, return receipt requested. This timeframe is an administrative requirement for IDOE and may not be used as a basis for overturning IDOE's action if a decision is not made within the specified timeframe.

The determination made by the Review Official is the final administrative determination to be afforded to Sponsor.

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:

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