

Summer Food Service Program [SFSP] State Agency Appeal Procedures

APPEALABLE ACTIONS

[7 CFR 225.13](#)

The following actions may be appealed by Sponsors of the SFSP:

- A denial of an application for participation.
- A denial of a sponsor's request for an advance payment.
- A denial of a sponsor's claim for reimbursement (except for late submission under Section [225.9\(d\)\(6\)](#))
- A state agency's refusal to forward to FNS an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim.
- A claim against a sponsor for remittance of a payment.
- The termination of the sponsor or a site.
- A denial of a sponsor's application for a site.
- A denial of a food service management company's application for registration, if applicable; or the revocation of a food service management company's registration, if applicable.

Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under Section [225.9\(d\)\(6\)](#).

APPEAL PROCESS

1. The sponsor or food service management company [FSMC] will be advised in writing of the grounds upon which the State agency based the action. The notice of action¹, which shall be sent via certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, shall also state that the sponsor or FSMC has the right to appeal the state's action;
2. **The sponsor or FSMC must make the appeal within ten calendar days from the date the appellant receives the notice of action¹.** The appeal must include the specific State agency action being appealed;
3. The appellant will be allowed the opportunity to review any information upon which the action was based;
4. The appellant is allowed to refute the charges contained in the notice of action¹ either in person or by filing written documentation with the review official. **To be considered, written documentation must be submitted by the appellant within seven calendar days of submitting the appeal.** This documentation must clearly identify the State agency action being appealed and must include a photocopy of the notice of action¹ issued by the State

agency;

5. A hearing will be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter appealing the action. The appellant may retain legal counsel or may be represented by another person. 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 State agency 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;
6. If the appellant requests a hearing, the appellant and the State agency shall be provided with at least five working days advance written notice, sent via certified mail, return receipt requested, of the time and place of the hearing;
7. The hearing must be held within 14 calendar days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received;
8. The review official is independent of the original decision-making process;
9. The review official will make a determination based on information provided by the State agency and the appellant, and on Program regulations;
10. Within five working days after the appellant's hearing, or within five working days after receipt of written documentation if no hearing is held, the reviewing official will make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested;
11. The State agency's actions remain in effect during the appeal process. However, participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action¹. If the State agency's termination action is upheld by the review official, terminated sponsors may not be reimbursed for meals served after the date stated on the notice of action¹;
12. The determination by the state review official is the final administrative determination to be afforded to the appellant.
13. All appeal documentation is to be kept in the Sponsor's Permanent File, G:\Child Nutrition\Sponsors\SFSP as well as the SFSP Appeals Log, G:\Child nutrition\SFSP\Appeals

APPEAL MUST BE DIRECTED TO:

Elizabeth Congdon
Review Official
Dispute Resolution Specialist, Senior
Idaho State Department of Education
Post Office Box 83720
Boise, ID 83720-0027
(208) 332-6912
E-mail: econgdon@sde.idaho.gov

¹ “Notice of action” is the letter received by the sponsor from the State agency notifying them of the appealable action. Examples of “notice of action” include fiscal action, denial, and termination letters. For questions, please contact the review official or the State agency.

In accordance with federal civil rights law and USDA civil rights regulations and policies, the USDA, its agencies, offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the state or local agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, [AD-3027](#), found online at How to File a Program Discrimination Complaint 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:

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.

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