

CHILDREN'S HUNGER ALLIANCE

Child and Adult Care Food Program Family Day Care Corrective Action Guidance

Includes:

Corrective Action Procedures
Termination of Agreement for Cause
Serious Deficiency Process
Suspension of Participation
Placement on National Disqualified List
Conditions of Reinstatement
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October 2011

Children’s Hunger Alliance
 Child and Adult Care Food Program
 Family Day Care Home Sponsor Guidance

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Introduction

In order to participate in the Child and Adult Care Food Program (CACFP), a day care home must operate under the auspices of and enter into a written agreement with an approved CACFP day care home sponsoring organization. The agreement must specify the rights and responsibilities of both parties which shall include, but not be limited to, the right of the sponsoring organization to terminate the CACFP agreement for cause and the requirement that the day care home comply with the federal regulations governing the program.

Federal law has established procedures related to terminating participation of day care homes (providers) in the CACFP. It gives providers the opportunity to request an administrative review (also referred to as an appeal) prior to termination of their CACFP agreement. This administrative review right is only required when the termination is “for cause”. Termination for convenience also is permitted, and does not require the sponsoring organization to offer an appeal to the provider in these situations.

The Ohio Department Education (ODE) will not offer a state-level appeal process for family day homes. Instead, each CACFP day care home sponsoring organization will follow the same review process in which the appeal review official is an impartial and independent person not involved in the decision to terminate the home’s participation.

Sponsoring organizations must follow the procedures for termination including the corrective action process, the serious deficiency process, suspension of participation, and provider appeal rights outlined in this guidance document.

Corrective Action Procedures

It is the responsibility of the sponsoring organization to provide sufficient training and technical assistance during the pre-approval and 30-day follow-up visits to assure successful participation for all providers. Technical assistance must be provided and documented during the early stages of program participation.

Corrective action procedures may take into consideration the following special extenuating circumstances: new to program participation, language barriers and literacy barriers, or other documented special circumstances. These circumstances may require extra technical assistance. Once a problem with meeting CACFP requirements is identified by a sponsoring organization, extra technical assistance must be provided and documented at least monthly. Technical assistance may continue as long as a provider is showing improvement. Documentation must indicate when the provider has completed corrective action or, if no improvement is made, the provider must be declared seriously deficient.

If a sponsor identifies that corrective action is required, the sponsoring organization will notify the provider, in writing, that he/she has some deficiencies in the operation of the CACFP. (Refer to Sample Letter #1—Notice of Noncompliance and Corrective Action).

Corrective Action Procedures can be found at the end of this document. The deficiencies listed under each regulation are common examples. This should not be interpreted as an exhaustive list. Other actions could also be considered deficiencies.

Termination of Agreement for Cause

A sponsoring organization (sponsor) must initiate action to terminate the CACFP agreement of a day care home (provider) for cause, if the sponsor determines the provider has committed one or more serious deficiencies listed below. Upon making a serious deficiency determination, if the provider does not take action to fully and permanently correct the serious deficiency within the allotted time, the provider's agreement must be terminated.

List of Serious Deficiencies:

1. Submission of false information on the application (sponsor/provider agreement) (7 CFR 226.16[1][2][i]).
2. Submission of false claims for reimbursement (7 CFR 226.16[1][2][ii]).
3. Simultaneous participation under more than one sponsoring organization (7 CFR 226.16[1][2][iii]).
4. Non-compliance with the program meal pattern (7 CFR 226.16[1][2][iv]).
5. Failure to keep required records (7 CFR 226.16[1][2][v]).
6. Conduct or conditions that threaten the health or safety of a child(ren) in care, or the public health or safety (7 CFR 226.16[1][2][vi]).
7. A determination that the day care home has been convicted of any activity that occurred during the past seven years and that indicated a lack of business integrity. A lack of business integrity includes 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. (7 CFR 226.16[1][2][vii]).
8. Failure to participate in training (7 CFR 226.16[1][2][viii]).
9. Any other circumstance related to non-performance under the sponsoring organization-day care home agreement, as specified by the sponsoring organization or the State agency. (7 CFR 226.16[1][2][ix]).

Serious Deficiency Process

If the serious deficiency(ies) constitutes an imminent threat to the health and safety of participants, or the provider has engaged in activities that threaten the public health or safety, the sponsor must follow the procedures outlined in Suspension of Day Care Homes CACFP Participation section of this guidance document.

If a sponsor identifies other conduct that is the basis for declaring a provider seriously deficient in the operation of the CACFP , which may result in provider's termination for cause of an agreement to participate in the CACFP (as outlined on the previous page), the following actions will be taken:

Serious Deficiency Notification Procedures

1. The sponsor will thoroughly investigate and document the serious deficiency (ies). This process may include, but not be limited to, parent contact for the verification of information.
2. The sponsor will notify the provider, in writing, that he/she has been found to be seriously deficient. (Refer to Sample Letter #2—Serious Deficiency Notice.) The sponsor will provide a copy of the serious deficiency notice to ODE.

The notice will include:

- (a) The serious deficiency (ies).
- (b) The actions to be taken by the provider to correct the deficiency(ies).
- (c) The allotted time to correct the serious deficiency(ies). This must be as soon as possible, but not to exceed 30 days.
- (d) That the serious deficiency determination is not subject to administrative review (appeal).
- (e) That failure to fully and permanently correct the serious deficiency(ies) within the allotted timeframe will result in the sponsor's proposed termination of the provider's agreement and disqualification of the provider.
- (f) That the provider's voluntary termination of its agreement with the sponsor after having been notified that he/she is seriously deficient will still result in the provider's formal termination by the sponsor and placement of the home and the provider on the national disqualified list.

3. The sponsor will provide technical assistance as appropriate in the areas identified as seriously deficient.

Successful Corrective Action

4. If the provider corrects the serious deficiency(ies) to the sponsor's satisfaction within the allotted timeframe, the sponsor will notify the provider that the determination of serious deficiency has been rescinded. (Refer to Sample Letter #3—Successful Corrective Action, Rescission of Serious Deficiency.) The sponsor will also provide a copy of this notice to ODE.

Unsuccessful Corrective Action—Proposed Termination and Proposed Disqualification

5. If the provider fails to implement timely corrective action to fully and permanently correct the serious deficiency(ies) cited, the sponsor must issue a notice proposing to terminate the provider's agreement for cause. (Refer to Sample Letter #4—Notice of Proposed Termination and Proposed Disqualification.) The sponsor will provide a copy of this notice to ODE.

The notice will:

- (a) Provide explanation of the provider's opportunity for an administrative review (appeal) of the proposed termination and the procedures to follow to request such appeal.
- (b) Inform the provider that he/she may continue to participate and receive program reimbursement for eligible meals served until the appeal concludes.
- (c) Inform the provider that termination of the agreement will result in the day care home's termination for cause and disqualification.
- (d) State that if the provider seeks to voluntarily terminate the agreement with the sponsor after receiving the Notice of Proposed Termination, the home will still be placed on the National Disqualified List.

6. If an administrative review (appeal) is requested, the sponsor will follow ODE's Administrative Review (Appeal) Procedures for Family Day Care Homes. If the appeal official overturns the sponsor's proposed actions, formal notification will be used to rescind the serious deficiency. (Refer to Sample Letter #5—Rescission of Serious Deficiency, Proposed Termination, and Proposed Disqualification.) The sponsor will provide a copy of this notice to ODE.

Agreement Termination and Disqualification

7. The sponsor will immediately terminate the day care home's agreement and disqualify the provider when the appeal official upholds the sponsor's proposed termination and proposed disqualification. At the same time, the notice of termination and disqualification is issued to the provider. (Refer to Sample Letter #6—Notice of Termination and Disqualification - after sponsor wins appeal.) The sponsor will provide a copy of this notice to ODE.

8. If the provider does not request an appeal, the sponsor will immediately terminate the provider's agreement and disqualify the home when the opportunity to request the appeal expires. At the same time, the notice of termination and disqualification is issued to the provider. (Refer to Sample Letter #7—Notice of Termination and Disqualification following failure to appeal.) The sponsor will provide a copy of this notice to ODE.

9. The state agency will report the name of the terminated and disqualified provider to the USDA placing his/her name on the National Disqualified List.

Program Payments during Serious Deficiency Process

The sponsor will continue to pay any legitimate claims for reimbursement for eligible meals served until the serious deficiency(ies) is corrected or the day care home's agreement is terminated, including the period of any administrative review (appeal).

Suspension of Day Care Homes CACFP Participation

Suspension of provider's participation in the CACFP will occur if serious deficiency(ies) constitutes an imminent threat to the health and safety of participants, or the provider has engaged in activities that threaten the public health or safety. Imminent threat to health or safety constitutes a serious deficiency. However, the sponsor will use the procedures in this section to provide notice of suspension and proposed termination to the provider.

1. If the state or local health or licensing officials have cited a provider for serious health or safety violations, the sponsor will immediately suspend the provider's CACFP participation prior to any formal action by the Department of Jobs and Family Services to revoke the home's license.
2. If the sponsor determines that there is an imminent threat to the health or safety of participants at the day care home, or that the provider has engaged in activities that threaten the public health or safety, the sponsor must immediately notify JFS and take action that is consistent with their recommendations and requirements.

Notice of Suspension, Serious Deficiency, and Proposed Termination Procedures

3. The sponsor will notify the provider that his/her participation has been suspended, that the provider has been determined seriously deficient, and that the sponsor proposes to terminate the provider's agreement for cause. (Refer to Sample Letter #8—Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice.) The sponsor will provide a copy of the notice to ODE.

The notice will:

- (a) Specify the serious deficiency(ies) found and the provider's opportunity for an administrative review (appeal) of the proposed termination, and the procedures to follow to request such appeal.
- (b) State that participation (including all program payments) will remain suspended until the administrative review (appeal) concludes.
- (c) Inform the provider that if the appeal official overturns the suspension, the provider may claim reimbursement for eligible meals served during the suspension.
- (d) Inform the provider that termination of the home's agreement will result in placement of the home on the National Disqualified List.
- (e) State that if the provider seeks to voluntarily terminate the agreement after receiving the notice of proposed termination, the home will still be terminated for cause and placed on the National Disqualified List.

4. If an appeal is requested, the sponsor will follow the Administrative Review (Appeal)

Procedures for Family Day Care Homes detailed in this document. If the appeal official overturns the sponsor's proposed actions, formal notification will be used to rescind the serious deficiency. (Refer to Sample Letter #9—Rescission of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification: Imminent Threat to Health or Safety -after provider wins appeal.) The sponsor will provide a copy of this notice to ODE.

Agreement Termination and Disqualification

5. The sponsor will immediately terminate the day care home's agreement and disqualify the home when the appeal official upholds the sponsor's proposed termination and proposed disqualification and issue the notice of termination and disqualification to the home. (Refer to Sample Letter #10—Notice of Termination and Disqualification: Imminent Threat to Health or Safety - after sponsor wins appeal.) The sponsor will provide a copy of this notice to ODE.

6. If the provider does not request an appeal, the sponsor will immediately terminate the provider's agreement and disqualify the home when the opportunity to request the appeal expires. At the same time, the notice of termination and disqualification is issued to the home. (Refer to Sample Letter #11—Notice of Termination and Disqualification: Imminent Threat to Health or Safety -following failure to appeal.) The sponsor will provide a copy of this notice to ODE.

7. ODE will report the name of the terminated and disqualified provider to the USDA placing his/her name on the National Disqualified List.

Program Payments during Suspension

A sponsor is prohibited from making program payments to a provider who has been suspended until an appeal of the proposed termination is completed. If the suspended provider prevails in the appeal, the sponsor will reimburse him/her for eligible meals served during the suspension period.

**Placement on the National Disqualified List
And
Conditions of Reinstatement**

Providers terminated and disqualified through the Serious Deficiency and Suspension of Participation processes, will be placed on the National Disqualified List. While on the list, the provider will not be able to participate in the CACFP as a day care home provider. In addition, he/she will not be able to serve as a principal (hold a management position or be an officer) in any CACFP institution or facility.

The provider will remain on the list until such time as ODE determines that:

1. The conduct that was the basis for the serious deficiencies has been permanently corrected.

Or

2. It has been seven years from the date of termination and disqualification.

And

3. The provider has repaid all funds received for which he/she was not eligible. If any debt relating to the serious deficiencies has not been repaid, the provider will remain on the list until the debt has been repaid.

ODE and sponsors will be able to access the National Disqualified List. Each sponsor will continually check the list when entering into agreement with a provider since sponsors are prohibited from entering into an agreement with any provider who has been terminated and disqualified and subsequently placed on the National Disqualified List.

Administrative Review (Appeal) Procedures

ODE requires that each sponsoring organization establish an administrative review (appeal) process in which the appeal review official is an impartial and independent person not involved in the decision to terminate the provider's participation.

Actions Subject to Appeal

The following appeal procedures established in accordance with Section 226.6, 226.16 and 226.18 of the Child and Adult Care Food Program regulations, as amended by Public Law 106-224, shall be implemented and will be offered by the sponsor to any provider when the sponsor:

1) Proposes to terminate its program agreement for cause or

2) Suspends their participation.

Actions Not Subject to Appeal

Neither ODE nor the sponsor is required to offer an administrative review for reasons other than those listed above.

Providing the Appeal Procedure to Providers

The sponsor will provide a copy of the appeal procedures to each provider:

1. Annually.
2. When the sponsor takes any action subject to an appeal as detailed above.
3. Any other time upon request.

Procedures

The sponsor will follow the Administrative Review (Appeal) Procedures for Family Day Care Homes. These procedures are found at the end of this guidance document.

Sample Forms and Sample Letters

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<Sponsoring Organization Name/Letterhead>

Notification of Reasons and Procedures for Termination of Providers
Child and Adult Care Food Program (CACFP) Participation

<Sponsoring Organization Name> may terminate the agreement with <Provider's Name> to participate in the CACFP for cause or convenience. In the case of "for cause", termination would be based on the provider's failure to take timely corrective action to fully and permanently correct a serious deficiency.

Serious deficiencies include:

- Submission of false information on the application (7 CFR 226.16[1][2][i]).
- Submission of false claims for reimbursement (7 CFR 226.16[1][2][ii]).
- Simultaneous participation under more than one sponsoring organization (7 CFR 226.16[1][2][iii]).
- Non-compliance with the program meal pattern (7 CFR 226.16[1][2][iv]).
- Failure to keep required records (7 CFR 226.16[1][2][v]).
- Conduct or conditions that threaten the health or safety of a child(ren) in care, or the public health or safety (7 CFR 226.16[1][2][vi]).
- A determination that the provider has been convicted of any activity that occurred during the past seven years and that indicated a lack of business integrity. A lack of business integrity includes 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. (7 CFR 226.16[1][2][vii]).
- Any other circumstance related to non-performance under the sponsoring organization-day care home agreement, as specified by the sponsoring organization or the State agency. (7 CFR 226.16[1][2][ix]).

Providers have the right to appeal a proposed action to terminate the agreement or to suspend participation in the CACFP by submitting a written request for an administrative review (appeal) as outlined below.

In the case where the outcome of an administrative review (appeal) upholds the intent to terminate or suspend CACFP participation, the sponsor must immediately terminate the provider's agreement and disqualify the provider from CACFP.

The names of disqualified providers will be placed on a National Disqualified List that will be made available to all state agencies and all CACFP sponsors. Once included on the National Disqualified List, a provider will remain on the list until such time as the state agency determines that the serious deficiency(ies) that led to placement on the list has(ve) been corrected, or until seven years have elapsed since they were disqualified from participation. However, if any debt relating to the serious deficiencies has not been repaid, a provider will remain on the list until the debt has been repaid.

Sample Letter # 1
Non-Compliance Notice

Notice of Noncompliance and Corrective Action

{Date}
{Provider Name}
{Provider Street Address}
{Provider City, State and Zip Code}

Dear {Provider}:

The following may be cause for termination of the agreement to participate in the Child and Adult Care Food Program (CACFP).

1. _____ Submission of false information on the application (7 CFR 226.16[1][2][i]).
2. _____ Submission of false claims for reimbursement (7 CFR 226.16[1][2][ii]).
3. _____ Simultaneous participation under more than one sponsoring organization (7 CFR 226.16[1][2][iii]).
4. _____ Non-compliance with the program meal pattern (7 CFR 226.16[1][2][iv]).
5. _____ Failure to keep required records (7 CFR 226.16[1][2][v]).
6. _____ Conduct or conditions that threaten the health or safety of a child(ren) in care, or the public health or safety (7 CFR 226.16[1][2][vi]).
7. _____ A determination that the day care home has been convicted of any activity that occurred during the past seven years and that indicated a lack of business integrity. A lack of business integrity includes 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 (7 CFR 226.16[1][2][vii]).
8. _____ Any other circumstance related to non-performance under the sponsoring organization-day care home agreement, as specified by the sponsoring organization or the State agency (7 CFR 226.16[1][2][ix]).

Notice of Noncompliance and Corrective Action
Page 2

Specific information on noncompliance: _____

The following corrective action must be implemented immediately:

- 1.
- 2.
- 3.

Technical assistance to prevent recurrence of the problem(s) was provided at monitoring visits on {Date} and/or training on { Date } and/or _____.

Further technical assistance to prevent recurrence of the problem is available upon request.

Because of the areas of noncompliance noted, your CACFP day care operation will be closely monitored and parents may be contacted for verification of information. Failure to permanently implement the corrective action will result in a Notice of Serious Deficiency and may result in termination of your CACFP participation for cause.

During the initial corrective action process you will not be allowed to transfer to another sponsor. If you withdraw from the CACFP before the process is completed, you will not be able to participate in the CACFP with any sponsor in the State of Ohio. There are no appeal rights.

We reserve the right to also issue a Notice of Serious Deficiency and begin the termination process for cause. If you are terminated for cause, your name will be forwarded for placement on a national list of disqualified providers. You will have the right to appeal the Intent to Terminate for Cause.

Sincerely,

{Regional Manager Name}
Regional Manager, Early Childhood Nutrition and Education

Sample Letter #2

Serious Deficiency Process
Sample Letter#2: Serious Deficiency Notice

[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or e-mail as required by 7CFR (226.2) (definition of “notice”) in the regulations.]

Date

Provider Name
Provider Street Address
Provider City, State 00000

Dear [Provider]:

This letter concerns the [brief description of the basis for the serious deficiency determination- review, audit, etc. and date] of your operation of the Child and Adult Care Food Program (CACFP).

SERIOUS DEFICIENCY DETERMINATION

Based on the [review/audit/etc.], we have determined that you are seriously deficient in your operation of the CACFP. If you do not fully and permanently correct all of the serious deficiencies and submit documentation of the corrective action by the due date, we will:

- Propose to terminate your agreement to participate in the CACFP for cause, and
- Propose to disqualify you from future CACFP participation.

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation. If disqualified, you will be placed on the National Disqualified List. While on the list, 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 list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 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 has been repaid.

These actions are being taken pursuant to section 226.16 (1) of the CACFP regulations (7 CFR 226.16(1)).

SERIOUS DEFICIENCIES AND REQUIRED CORRECTIVE ACTION

The following paragraphs detail each serious deficiency and the corrective action required.

[Insert discussion of serious deficiencies and required corrective action. Each serious deficiency discussed must include a citation to the relevant serious deficiency in the regs at 7CFR 226.16(1)(2) (if the serious deficiency is not specifically listed, cite 7 CFR 226.16(1)(2)(vii) “any other circumstance related to non-performance under the sponsoring organization-day care home agreement”).]

SUMMARY

We have determined that you are seriously deficient in your operation of the CACFP. You must provide us documentation that shows you have taken the required corrective action for each of the serious deficiencies cited in this letter. The documentation must be received (not just postmarked) by [corrective action deadline; may establish different deadlines for different serious deficiencies].

If we do not receive the documentation of your corrective action by the due date, or if we determine that the actions taken do not fully and permanently correct all of the serious deficiencies, we will propose to terminate your CACFP agreement for cause and will propose to disqualify you.

You may not appeal the serious deficiency determination. However, if we propose to terminate your agreement for cause or propose to disqualify you, you will be able to appeal those actions and you will be advised of your appeal rights and the appeal procedures at that time.

You may continue to participate in the CACFP during the corrective action period. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

[Insert if applicable: “If we receive the documentation of your corrective action by the due date and determine that it fully and permanently corrects all of the serious deficiencies, then we will conduct an unannounced follow-up review to verify the adequacy of the corrective action.”] If we find in [insert if applicable: “the follow-up review or”] any subsequent review that any of these serious deficiencies have not been fully and permanently corrected, we will immediately propose to terminate your agreement for cause and propose to disqualify you without any further opportunity for corrective action.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

Sample Letter #3

Serious Deficiency Process

Sample Letter #3: Successful Corrective Action, Temporary Deferment of Serious Deficiency

[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service(such as FedEx), fax or e-mail as required by 7 CFR 226.2 (definition of “notice”) in the regulations.]

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear (Provider):

This letter concerns the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the Child and Adult Care Food Program (CACFP).

We received the documentation you sent us detailing the actions you have taken to correct these serious deficiencies on {date}, before the corrective action deadline. [Insert if applicable: “We conducted a follow-up review on [date] to verify the adequacy of the corrective actions.”]

SERIOUS DEFICIENCY DETERMINATION TEMPORARILY DEFERRED

Based on our review of the documentation [insert if applicable: “and the [date] follow-up review”], we have determined that you have fully and permanently corrected the serious deficiencies that were cited in the Serious Deficiency Notice. As a result, we have temporarily deferred our serious deficiency determination as of the date of this letter. This also means that we will not propose to terminate your agreement for cause based on this serious deficiency finding or propose to disqualify you on that basis.

ADEQUACY OF CORRECTIVE ACTIONS

The following paragraphs describe the results of our corrective action.

[Insert discussion of each serious deficiency and why the corrective action is adequate. Each serious deficiency discussed must include a citation to relevant serious deficiency in the regs at 7 CFR 226.16(1)(2) (if the serious deficiency is not specifically listed, site 7 CFR 226.16(1)(2)(ix)”any other circumstance related to non-performance under the sponsoring organization-day care home agreement”).]

[Insert if appropriate: Our report on the [date] follow-up review will be provided to you in a separate letter.]

Serious Deficiency Process

Sample Letter #3: Successful Corrective Action, Rescission of Serious Deficiency

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SUMMARY

We have temporarily deferred our serious deficiency determination. However if we find in any subsequent review that any of these serious deficiencies have not been fully and permanently corrected, we will immediately propose to terminate your agreement for cause and propose to disqualify you without any further opportunity for corrective action.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

Sample Letter #4

Serious Deficiency Process

Sample Letter #4: Notice of Proposed Termination and Proposed Disqualification

[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or as required by 7CFR 226.2 (definition of “notice”) in the regulations.]

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the Child and Adult Care Food Program (CACFP).

We received the documentation you sent us detailing the actions you have taken to correct these serious deficiencies on [date], before the corrective action deadline. [Insert if applicable: “We conducted a follow-up review on [date] to verify the adequacy of the corrective actions.”]

Based on our review of the documentation [insert if applicable: “and the follow-up review”], we have determined that you have not fully and permanently corrected the serious deficiencies that were cited in the Serious Deficiency Notice.

PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION

As a result, we are:

- Proposing to terminate your agreement to participate in the CACFP for cause effective [date] and
- Proposing to disqualify you from future CACFP participation effective [date].

[The effective date for the termination/disqualification must be after the deadline for requesting an appeal. In addition, the effective date for the disqualification should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation. If disqualified, you will be placed on the National Disqualified List. While on the list, 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 principal in any CACFP institution or facility.

Serious Deficiency Process

Sample Letter #4: Notice of Proposed Termination and Proposed Disqualification

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You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until debt has been repaid.

These actions are being taken pursuant to section 226.16(1) of the CACFP regulations (7 CFR 226.16(1)).

STATUS OF SERIOUS DEFICIENCIES

The following paragraphs detail each serious deficiency and its status based on our review of the corrective action documentation [insert if applicable: “and the [date] follow-up review”].

[Insert discussion of each serious deficiency and the reasons why corrective action was inadequate (the corrective action may be adequate for some items and not for others; make sure you specify the status of the corrective action for each serious deficiency).

Each serious deficiency discussed must include a citation to the relevant serious deficiency in the regs at 7 CFR 226.16(1) (2) (if the serious deficiency is not specifically listed, cite 7 CFR 226.16(1)(2)(vii) “any other circumstance related to non-performance under the sponsoring organization-day care home agreement”).]

APPEAL OF PROPOSED TERMINATION AND PROPOSED DISQUALIFICATIONS

You may appeal the proposed termination of your agreement for cause and your proposed disqualification. A copy of the appeal procedures is enclosed. If you decide to appeal the proposed actions, make sure you follow the appeal procedures exactly because the failure to do so could result in the denial of your request for an appeal.

SUMMARY

You have not fully and permanently corrected the serious deficiencies identified in the Serious Deficiency Notice. For this reason, we are proposing to terminate your CACFP agreement for cause and proposing to disqualify you.

If you appeal the proposed termination and the proposed disqualification, the proposed actions will not take effect until the hearing official issues a decision on the appeals. If you don't make a timely request for an appeal, your agreement will be terminated for cause on [date]. If you do not appeal your proposed disqualification, you will be disqualified from future CACFP participation effective [date] and placed on the National Disqualified List.

Serious Deficiency Process

Sample Letter #4: Notice of Proposed Termination and Proposed Disqualification

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You may continue to participate in the CACFP until [termination/disqualification effective date] or, if you appeal the proposed actions, until the hearing official issues a decision on the appeal. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

Sincerely,

Sponsor Employee Name & Title

Enclosure
Appeal Procedures

cc: State agency

Sample Letter #5

Serious Deficiency Process

Sample Letter #5: Temporary Deferment of Serious Deficiency, Proposed Termination, and Proposed Disqualification (after provider wins appeal)

[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery services (such as FedEx), fax or e-mail as required by 7 CFR 226.2 (definition of “notice”) in the regulations.]

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns our [date of Notice of Proposed Termination & Proposed Disqualification] letter (Notice of Proposed Termination & Proposed Disqualification), which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause. In that letter, we also proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You filed a timely appeal of the proposed termination and proposed disqualification. On [date of hearing official’s decision], the hearing official issued a decision on the appeal in that decision, the hearing official overturned both of our proposed actions.

SERIOUS DEFICIENCY DETERMINATION TEMPORARILY DEFERED

As a result, we have temporarily deferred our serious deficiency determination as of [date of hearing official’s decision] (the date of the hearing official’s decision). We also temporarily deferred the proposed termination of your agreement for cause and your proposed disqualification as of the same date.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

Sample Letter #6

Serious Deficiency Process

Sample Letter #6: Notice of Termination and Disqualification (after sponsor wins appeal)

[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or e-mail as required by 7 CFR 226.2 (definition of “notice”) in the regulations.]

Date:

Provider Name
Provider Street Address
Provider City, State 00000

Dear [Provider]:

This letter concerns our [date of Notice of Proposed Termination & Proposed Disqualification] letter (Notice of Proposed Termination & Proposed Disqualification), which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause. In that letter, we also proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficiency in your operation of the CACFP.

You filed a timely appeal of the proposed termination and proposed disqualification. On [date of hearing official’s decision], the hearing official issued a decision on the appeal. In that decision, the hearing official upheld both of our proposed actions.

TERMINATION AND DISQUALIFICATION

As a result, we are:

- Terminating your agreement to participate in the CACFP for cause effective [date], and
- Disqualifying you from future CACFP participation effective [date].

[The effective date for the disqualifications should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]

In addition if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation.

Upon disqualification, you will be placed on the National Disqualified List. While on the list, 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.

Serious Deficiency Process

Sample Letter #6: Notice of Termination and Disqualification (after sponsor wins appeal)

Page 2

You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 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 has been repaid.

These actions are being taken pursuant to section 226.16(1) of the CACFP regulations (7 CFR 226.16(1)).

SUMMARY

We are terminating your CACFP agreement for cause and disqualifying you. You may not appeal the termination of its agreement for cause or the disqualification. You may continue to participate in the CACFP until [termination/disqualification effective date]. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

Sample Letter #7

Serious Deficiency Process for Providers

Sample Letter #7: Notice of Termination and Disqualification (following failure to appeal)

[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or e-mail as required by 7 CFR 226.2 (definition of “notice”) in the regulations.]

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns our [date of Notice of Proposed Termination & Proposed Disqualification] letter (Notice of Proposed Termination & Proposed Disqualification), which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause. In that letter, we also proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You received the Notice of Proposed Termination & Proposed Disqualification on [date received]. You had until [insert deadline for requesting appeal] to submit any requests for appeal of the proposed actions. No request for appeals was submitted by that deadline.

TERMINATION AND DISQUALIFICATION

Because the time to request an appeal has now expired, we are:

- Terminating your agreement to participate in the CACFP for cause effective [date], and
- Disqualifying you from future CACFP participation effective [date].

[The effective date for the disqualification should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation.

Serious Deficiency Process for Providers

Sample Letter #7: Notice of Termination and Disqualification (following failure to appeal)

Page 2

Upon disqualification, you will be placed on the National Disqualified List. While on the list, 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 list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 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 has been repaid.

In addition, you will not be able to serve as a principal in any CACFP institution or facility. You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 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 has been repaid.

These actions are being taken pursuant to section 226.16(l) in CACFP regulations (7 CFR 226.16(l)).

SUMMARY

We are terminating your CACFP agreement for cause and disqualifying you. You may not appeal the termination of the agreement for cause or the disqualification. You may continue to participate in the CACFP until [termination/disqualification effective date]. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

Sample Letter #8

Suspension of Providers

Sample Letter #8: Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice: Imminent Threat to Health or Safety

Note: This letter must be sent by certified mail/return receipt or an equivalent private delivery service (such as FedEx), fax, or e-mail as required by section 226.2 (definition of “notice”) in CACFP regulations.

Date

Provider Name

Provider Street Address

Provider City, State and Zip Code

Dear [Provider]:

This letter concerns the [brief description of the basis for the serious deficiency determination –review, parent survey, etc. and date] of your operation of the Child and Adult Care Food Program (CACFP).

SERIOUS DEFICIENCY DETERMINATION

Based on the [review/parent survey/etc.], [insert name of sponsoring organization] has determined that you are seriously deficient in your operation of the CACFP.

SUSPENSION

One of the serious deficiencies identified is the imminent threat to the health or safety of CACFP participants or the public (for details, see the description of the serious deficiencies later in this letter). Because of this imminent risk, [insert name of sponsoring organization] is suspending your CACFP participation (including all Program payments).

The suspension of CACFP participation (including all Program payments) will take effect on the date of this letter. This action is being taken pursuant to section 226.16(l)(4) in CACFP regulations (7 CFR 226.16[l][4]).

PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION

We are also:

- Proposing to terminate your agreement to participate in the CACFP for cause effective [date], and
- Proposing to disqualify you from future CACFP participation effective [date].

[NOTE: The effective date for the termination/ disqualification must be after the deadline for requesting an appeal. In addition, the effective date for the disqualifications should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]

Suspension of Providers

Sample Letter #8: Prototype Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice: Imminent Threat to Health or Safety
Page 2

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation. If disqualified, you will be placed on the National Disqualified List. While on the list, 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 list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 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 has been repaid.

These actions are being taken pursuant to section 226.16(l)(4) in CACFP regulations (7 CFR 226.16[l][4]).

SERIOUS DEFICIENCIES

The following paragraphs detail each serious deficiency.

[Insert discussion of serious deficiencies. Each serious deficiency discussed must include a citation to the relevant serious deficiency in the regulations at 226.16(l)(2) (if the serious deficiency is not specifically listed, cite 226.16[l][2][viii] “any other circumstance related to non-performance under the sponsoring organization-day care home agreement”).

APPEAL OF SUSPENSION, PROPOSED TERMINATION AND PROPOSED SUSPENSIONS

You may appeal the suspension, the proposed termination of your agreement for cause and your proposed disqualification. A copy of the appeal procedures is enclosed. If you decide to appeal the suspension or the proposed actions, make sure you follow the appeal procedures exactly because the failure to do so could result in the denial of your request for an appeal.

SUMMARY

We are suspending your CACFP participation (including all Program payments). In addition, we are proposing to terminate your agreement for cause and proposing to disqualify you.

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

Suspension of Providers

Sample Letter #8: Prototype Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice: Imminent Threat to Health or Safety

Page 3

If you appeal the proposed termination and the proposed disqualification, the proposed actions will not take effect until the Administrative Review Official issues a decision on the appeals. If you do not make a timely request for an appeal, your agreement will be terminated for cause on [date]. If you do not appeal your proposed disqualification, you will be disqualified from future CACFP participation effective [date] and placed on the National Disqualified List.

Sincerely,

Sponsor Employee Name & Title

Enclosure: Appeal Procedures

cc: State agency

Sample Letter #9

Suspension of Providers

Sample Letter #9: Rescission of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification: Imminent Threat to Health or Safety (after provider wins appeal)

Note: This letter must be sent by certified mail/return receipt or an equivalent private delivery service (such as FedEx), fax, or e-mail as required by section 226.2 (definition of “notice”) in CACFP regulations.

Date

Provider Name

Provider Street Address

City, State and Zip Code

Dear [Provider]:

This letter concerns the [date of Combined Notice] letter, which suspended your participation in the Child and Adult Care Food Program (CACFP). In that letter, we also proposed to terminate your CACFP agreement for cause and proposed to disqualify you from further CACFP participation. These actions were based on the determination in the [date of Combined Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You filed a timely appeal of the suspension, proposed termination and proposed disqualification. On [date of appeal official’s decision], the Administrative Review Official issued a decision on all of the appeals. In that decision, the suspension and both of the proposed actions were overturned.

As a result, we have rescinded the serious deficiency determination as of [date of hearing official’s decision] (the date of the Administrative Review Official’s decision). We are also rescinding the suspension, the proposed termination of your agreement for cause and your proposed disqualification as of the same date.

Any valid claims for reimbursement submitted by you for the period of the suspension will be paid. You must submit these claims by [insert a date that will give the provider an appropriate length of time to submit these claims].

Sincerely,

Sponsor Employee Name & Title

cc: State agency

Sample Letter #10

Suspension of Providers

Sample Letter #10: Notice of Termination and Disqualification: Imminent Threat to Health or Safety (after sponsor wins appeal)

Note: This letter must be sent by certified mail/return receipt or an equivalent private delivery service (such as FedEx), fax, or e-mail as required by section 226.2 (definition of “notice”) in CACFP regulations.

Date

Provider Name

Provider Street Address

Provider City, State and Zip Code

Dear [Provider]:

This letter concerns the [date of Combined Notice] letter, which suspended your participation in the Child and Adult Care Food Program (CACFP). In that letter, we also proposed to terminate your CACFP agreement for cause and proposed to disqualify you from further CACFP participation. These actions were based on the determination in the [date of Combined Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You filed a timely appeal of the suspension, proposed termination and proposed disqualification. On [date of appeal official’s decision], the Administrative Review Official issued a decision on all of the appeals. In that decision, the suspension and both of the proposed actions were upheld.

As a result of this decision, we are:

- Terminating your agreement to participate in the CACFP for cause effective on the date of this letter, and
- Disqualifying you from future CACFP participation effective on the date of this letter.

[NOTE: Because the institution has already been suspended, the termination should be made effective on the date of this letter. The effective date for the disqualification should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation.

Upon disqualification, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider.

Sample Letter #10: Notice of Termination and Disqualification: Imminent Threat to Health or Safety (after sponsor wins appeal)

Page 2

In addition, you will not be able to serve as a principal in any CACFP institution or facility.

You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 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 has been repaid.

These actions are being taken pursuant to section 226.16(l)(4) in CACFP regulations (7 CFR 226.16[l][4]).

SUMMARY

We are terminating your CACFP agreement for cause and disqualifying you. You may not appeal the termination of your agreement for cause or your disqualification.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

Sample Letter #11

Suspension of Providers

Sample Letter #11: Notice of Termination and Disqualification: Imminent Threat to Health or Safety (following failure to appeal)

NOTE: This letter must be sent by certified mail/return receipt or an equivalent private delivery service (such as FedEx), fax, or e-mail as required by section 226.2 (definition of “notice”) in CACFP regulations.

Date

Provider Name

Provider Street Address

City, State and Zip Code

Dear [Provider]:

This letter concerns the [date of Combined Notice] letter, which suspended your participation in the Child and Adult Care Food Program (CACFP). In that letter, [insert name of sponsoring organization] also proposed to terminate your CACFP agreement for cause and proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [date of Combined Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You received the [date of Combined Notice] letter on [date received]. You had until *[insert deadline for requesting appeal]* to submit any request for an appeal of the proposed actions. No request for an appeal was submitted by that deadline.

Because the time to request an appeal has now expired, [insert name of sponsoring organization] is:

- Terminating your agreement to participate in the CACFP for cause effective on the date of this letter, and
- Disqualifying you from future CACFP participation effective on the date of this letter.

[NOTE: Because the institution has already been suspended, the termination should be made effective on the date of this letter. The effective date for the disqualification should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]

Upon disqualification, you will be placed on the National Disqualified List. While on the list, 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.

Suspension of Providers

Sample Letter #11: Notice of Termination and Disqualification: Imminent Threat to Health or Safety (following failure to appeal)

Page 2

You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 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 has been repaid.

These actions are being taken pursuant to section 226.16(l)(4) in CACFP regulations. (7 CFR 226.16(l)(4)).

SUMMARY

We are terminating your CACFP agreement for cause and disqualifying you. You may not appeal the termination of your agreement for cause or your disqualification.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

Family Day Care Home Corrective Action Procedures

The following Corrective Action Procedures have been developed as the result of direction from the United States Department of Agriculture (USDA). All CACFP Family Day Care Home sponsors must follow these procedures effective February 1, 2011.

It is the responsibility of the Family Day Care Home Sponsor to provide sufficient training and technical assistance during the preapproval and 30-day follow-up visits to assure successful participation for all providers. Technical assistance must be documented and provided during the early stages of program participation.

Corrective Action Procedures may take into consideration the following special extenuating circumstances: new participants on the program, language barriers and literacy barriers, or other documented special circumstances. These circumstances may require extra technical assistance. Once a problem is identified, extra technical assistance must be provided and documented at least monthly. Technical assistance may continue as long as providers are showing improvement. Documentation must indicate when the provider has completed corrective action or, if no improvement is made, the provider must be declared seriously deficient and issued a Notice of Serious Deficiency.

The deficiencies listed under each Code of Federal Regulations (CFR) are common examples. This should not be interpreted as an exhaustive list. Other actions could also be considered deficiencies. Each deficiency is identified by the appropriate regulatory citation.

1. Submission of False Claims—7 CFR 226.16(1)(2)(ii); Failure to Keep Required Records—7 CFR 226.16(1)(2)(v); Noncompliance with Program Meal Pattern—7CFR 226.16(1)(2)(iv); Any Other Circumstance Related to Nonperformance—7CFR 226.16(1)(2)(ix)		
Finding	Sponsor Action	Provider Action
<ul style="list-style-type: none"> • Foods observed at a visit did not match the foods on the claim. • Children observed at visit did not match those on the claim and/or attendance record. • Meals claimed for children were not observed during visit. • Dinner not served on visit day, but is served every other day. • Weekend meal not served on visit day, but it is on all other weekends. • The in/out times on the attendance do not match what was observed or usually claimed. • Some children gone so unable to observe a shift that is always claimed and/or shifting not able to be observed. • Claims school hours on Saturdays or holidays. • Fewer or no kids present when visit attempted for a meal that is usually claimed. 	<p>First Occurrence: Start Corrective Action</p> <ol style="list-style-type: none"> 1. Deduct meals. 2. Within one month of finding, conduct an unannounced follow-up visit for explanation and technical assistance. 3. Conduct parent verifications, if appropriate. 4. Require parent sign-in/out forms, if appropriate. 5. Send Non-Compliance Letter (Sample Letter #1) <p>Reoccurrence After Technical Assistance</p> <ol style="list-style-type: none"> 1. Revoke shift, dinner, and/or weekend claiming privilege, if appropriate. 2. Begin Serious Deficiency Process by sending the Serious Deficiency Notice (Sample Letter #2.) 	<p>First Occurrence: Corrective Action Started</p> <ol style="list-style-type: none"> 1. Provide explanation of cause and a plan to prevent the same problem in the future, written if requested, by specified date. 2. Always record menu and/or attendance at point of service. <p>Reoccurrence After Technical Assistance</p> <ol style="list-style-type: none"> 1. As above with any Additional instructions in the serious deficiency notice. 2. Sponsors may request providers who serve dinner/evening snacks/weekends sporadically to submit schedules.

2. Failure to Keep Required Records—7 CFR 226.16(1)(2)(v); Failure to Maintain Required Records—7 CFR 226.18(16)(e)

Finding	Sponsor Action	Provider Action
<ul style="list-style-type: none"> • Paperwork behind one to two days. 	Deduct meals and provide technical assistance.	
<ul style="list-style-type: none"> • Attendance recorded in advance. • Meal count recorded in advance. • Paperwork behind three or more days. 	<p>First Occurrence: Start Corrective Action</p> <ol style="list-style-type: none"> 1. Deduct meals and provide technical assistance. 2. Immediate unannounced follow-up visit. 3. Two additional unannounced visits with no repeat of problems. 4. Send Non Compliance Letter (Sample Letter #1). <p>Reoccurrence After Technical Assistance Begin Serious Deficiency Process by sending the Serious Deficiency Notice (Sample Letter #2.)</p>	<ol style="list-style-type: none"> 1. Always keep all paperwork current through previous day. 2. Never record attendance or meal counts in advance. 3. Any additional instructions in the serious deficiency notice.

3. Claiming Meals not Served to Participants—7 CFR 226.16(1)(2)(ii) and 226.18(e) and 226.18(b)(4); Submission of False Claims—7 CFR 226.16(1)(2)(ii); Failure to Keep Records—7 CFR 226.16(1)(2)(v); Any Other Circumstance Related to Nonperformance—7 CFR 226.16(1)(2)(ix)

Finding	Sponsor Action	Provider Action
<ul style="list-style-type: none"> • Children claimed when no longer in care. • Nonexistent children claimed. 	<p>First Occurrence: Start Corrective Action (do all five)</p> <ol style="list-style-type: none"> 1. Deduct meals. 2. Immediate unannounced follow-up visit. 3. Two additional unannounced visits (spaced at random) with no repeat of problems. 4. Conduct parent verifications if attendance issues are significant. 5. Require parent sign in/out if parent verifications are inconclusive. <p>If Discrepancy Confirmed Begin Serious Deficiency Process by sending the Serious Deficiency Notice (Sample Letter #2.)</p>	<p>First Occurrence: Corrective Action Started</p> <ol style="list-style-type: none"> 1. Provide written explanation. 2. Tell about all children to be claimed, including children who are napping, already ate and left, or will be arriving late. <p>If Discrepancy Confirmed As above with any additional instructions in the serious deficiency notice.</p>
Meals claimed for children for times/days parents say they were not in care.	Same as above (3) with a second parent verification conducted after 4–6 months.	Record accurate in/out times and never claim children when they are gone—even temporarily.

4. Claiming Meals Served Over Capacity/Failure to Comply with Licensing Standards—CFR 226.18(a); Failure to Keep Records—7 CFR 226.16(1)(2)(v); Any Other Circumstance Related to Nonperformance—7 CFR 226.16(1)(2)(ix)		
Finding	Sponsor Action	Provider Action
<ul style="list-style-type: none"> • Attendance in/out times show number of children present is over capacity. • Number of children observed at visit was over capacity. • Assistant not present when number of children present is over capacity. • Too many children under two years old. • Shifts of children not done correctly – overlap causes overcapacity at times. 	<p>Every Occurrence</p> <ol style="list-style-type: none"> 1. Deduct meals and provide technical assistance. 2. Report over capacity by letter to child care licensor or licensing supervisor. 	<ol style="list-style-type: none"> 1. Be aware of license capacity. Take whatever measures necessary to stay within capacity or get a license exception from licensor. 2. No overlap is allowed without a waiver. 3. Always have assistant present when capacity requires it. 4. Record all children in care, including your own children, on attendance form, whether claimed or not. This includes infants, drop-ins, children not present at meal time, etc.
<ul style="list-style-type: none"> • Not all children in care are recorded on the attendance roster. 	<p>First Occurrence: Start Corrective Action Provide technical assistance.</p> <p>Second Occurrence</p> <ol style="list-style-type: none"> 1. Immediate unannounced follow-up visit. 2. Two additional unannounced visits (spaced at random) with no repeat of problems. 3. Verify capacity and conduct parent verifications. 4. Send Non Compliance Letter(Sample Letter #1.) <p>Reoccurrence After Technical Assistance Begin Serious Deficiency Process by sending the Serious Deficiency Notice(Sample Letter #2.)</p>	<ol style="list-style-type: none"> 1. Record all children in care, including your own children, on attendance form, whether claimed or not. This includes infants, drop-ins, children not present at meal time, etc.

5. Any other Circumstance Related to Nonperformance – CFR 226.16(1)(2)(ix)		
Finding	Sponsor Action	Provider Action
<ul style="list-style-type: none"> • Did not notify sponsor of changes in license (revocations, suspension, reduction, moved). 	<ol style="list-style-type: none"> 1. Deduct meals retroactive to discrepancy and provide technical assistance. 2. Begin Serious Deficiency Process by sending the Serious Deficiency Notice (Sample Letter #2.) If finding is for health and safety, SUSPEND IMMEDIATELY and confer with licensing agency. Report to Child Protective Services in your county 	<ol style="list-style-type: none"> 1. Submit valid license immediately. 2. Notify sponsor of changes in license capacity, address, name, etc. 3. If suspended, may appeal.
<ul style="list-style-type: none"> • Children’s health or safety is at risk. 	<p>SUSPEND IMMEDIATELY and confer with licensing agency. Report to Child Protective Services in your county.</p>	<p>If suspended, may appeal.</p>

6. Claiming Meals Served to Provider's Children Who Are Not Eligible—7 CFR 226.18(e); Failure to Keep Records—7 CFR 226.16(1)(2)(v); Any Other Circumstance Related to Nonperformance—7 CFR 226.16(1)(2)(ix)		
Finding	Sponsor Action	Provider Action
<ul style="list-style-type: none"> • Provider's own children claimed -not income eligible. • Provider's own child 12 years old and still claimed. 	<p>First Occurrence: Start Corrective Action Deduct meals and provide technical assistance.</p>	<ol style="list-style-type: none"> 1. Record own children on attendance only. 2. Do not record any meals or fill in their numbers on Minute Menu forms. 3. Take children off forms on twelfth birthday.
7. Serving Meals That Do Not Meet the Meal Pattern – 7 CFR 226.20 and 226.16 (1)(2)(iv)		
Finding	Sponsor Action	Provider Action
<ul style="list-style-type: none"> • Incomplete meal observed at a visit. • Portions served are obviously not sufficient. • Family style service foods or full portions not accepted are not offered a second time. 	<p>First Occurrence: Start Corrective Action</p> <ol style="list-style-type: none"> 1. Deduct meals and provide technical assistance. 2. Unannounced follow-up visit as needed. 3. Send Non Compliance Notice (Sample Letter #1.) <p>Reoccurrence After Technical Assistance Begin Serious Deficiency Process by sending the Serious Deficiency Notice (Sample Letter #2.)</p>	<ol style="list-style-type: none"> 1. Follow meal pattern requirements exactly. Request assistance when needed. 2. Measure portions until familiar with appropriate amounts. 3. Read manual and/or Creditable Foods Guide. 4. Offer food to children at least twice if not accepted or if portion taken the first time is small. 5. Complete paperwork accurately and carefully. Request help if you have any questions.

8. Failure to Comply with Monitoring Requirements—7 CFR 226.18(b)(8); Failure to Keep Records—7 CFR 226.16(1)(2)(v); Submission of False Claims for Reimbursement—7 CFR 226.16(1)(2)(ii); Any Other Circumstance Related to Nonperformance—7 CFR 226.16(1)(2)(ix)

Finding	Sponsor Action	Provider Action
<ul style="list-style-type: none"> • Not home for attempted visit, and no prior notification given to monitor. • Not home for attempted visit, but children claimed. • Meal observation missed by monitor because it was served earlier or later than on agreement. 	<p>First Occurrence: Start Corrective Action</p> <ol style="list-style-type: none"> 1. Deduct meals if applicable. 2.. Immediate unannounced follow-up visit. 3. Additional unannounced visits (spaced at random). 4. Conduct parent verifications if attendance issues are significant. 5. Lose shift/dinner/ weekend privilege. 6. Send Non Compliance Letter (Sample Letter #1.) <p>Reoccurrence After Technical Assistance Begin Serious Deficiency Process by sending the Serious Deficiency Notice (Sample Letter #2.)</p>	<p>First/Second Occurrence: Corrective Action Started</p> <ol style="list-style-type: none"> 1. Provide explanation, written if requested, by specified date. 2. Notify sponsor whenever meals will be served away from child care home. 3. Notify sponsor immediately if meal times change. <p>Reoccurrence After Technical Assistance As above with any additional instructions in the serious deficiency notice.</p>
<ul style="list-style-type: none"> • Assistant in charge did not have access to paperwork. • Did not allow monitor in to do visit. 	<p>First Occurrence: Start Corrective Action</p> <ol style="list-style-type: none"> 1. Deduct meals. 2.. Immediate unannounced follow-up visit. 3. Send Non Compliance Letter (Sample Letter #1.) <p>Reoccurrence After Technical Assistance Begin Serious Deficiency Process by sending the Serious Deficiency Notice (Sample Letter #2.)</p>	<ol style="list-style-type: none"> 1. Always notify sponsor if you must cancel an appointment as soon as possible. 2. Allow monitor to complete visit even if no children are present unless there are special circumstances. A written explanation must be submitted immediately. 3. Assistants must have access to all records, including computer programs.

9. Failure to Comply with Civil Rights Laws—266.6(b)(18)(iii)(E)(4); Any Other Circumstance Related to Nonperformance—7 CFR 226.16(1)(2)(ix)		
Finding	Sponsor Action	Provider Action
<ul style="list-style-type: none"> • Refuse care for specific child due to age, special needs, etc. 	Provide resources, technical assistance.	Cannot discriminate.
10. Failure to Attend Annual CACFP Training—7 CFR 226.18(b)(2); Failure to Participate in Training—7 CFR 226.16(1)(2)(viii); Any Other Circumstance Related to Nonperformance—7 CFR 226.16(1)(2)(ix)		
Finding	Sponsor Action	Provider Action
<ul style="list-style-type: none"> • Did not complete training. 	<ol style="list-style-type: none"> 1. Provide in-home training opportunity. 2.. If training is refused, begin Serious Deficiency Process by sending Serious Deficiency Notice (Sample Letter #2). 	Complete in-home or group training.
11. Any Other Circumstance Related to Nonperformance—7 CFR 226.16(1)(2)(ix)		
Finding	Sponsor Action	Provider Action
<ul style="list-style-type: none"> • Tiering – did not notify us of changes that affect tier level (income, family size, etc.) 	Do all four: <ol style="list-style-type: none"> 1. Reclassify and/or deduct meals and provide technical assistance. 2.. Reevaluation provider and tier. 3. File revised claims. 4. Begin Serious Deficiency Process by sending the Serious Deficiency Notice (Sample Letter #2). 	<ol style="list-style-type: none"> 1. Always report to sponsor immediately any changes in family size or income (more than \$50 per month or \$600 per year). 2.. Provider submits written plan to prevent future invalid tiering. 3. Repay all excess money received based on incorrect tiering.
<ul style="list-style-type: none"> • Parent signatures on enrollment parent verifications, etc. are not valid. 	<ol style="list-style-type: none"> 1. Deduct all meals for children involved. 2.. Conduct parent verifications for all children. 3. Begin Serious Deficiency Process by sending the Serious Deficiency Notice (Sample Letter #2). 	<ol style="list-style-type: none"> 1. Submit written explanation. 2.. Repay all money for meals claimed for children not enrolled and/or for unverifiable meals. Reenroll all children with enrollments direct to sponsor from parents.

Family Day Care Home Administrative Review (Appeal) Procedure

All family day care home providers, that have been given a Notice of Intent to Terminate for Cause, have the right to appeal (request an administrative review).

The procedure for an appeal follows.

Purpose

The appeal procedure allows day care home providers participating in the CACFP an avenue of appeal. A provider may appeal (request an administrative review) when the Family Day Care Home Sponsoring Organization (SO):

1. Proposes termination of the provider's program participation.
2. Suspends the provider's agreement for program participation.

Procedure

Notification, request, and procedure for hearing:

1. Children's Hunger Alliance will send out appeal procedures annually to providers. For our web claimers we will send a broadcast message via Minute Menu with a link to the appeal procedures and for our scan form claimers we will send via mail every October, at the beginning of the fiscal year.
2. Whenever the SO takes action that will affect the participation of a provider in the CACFP the SO will inform the provider in writing of the action and the grounds upon which its decision is based. The SO will advise the provider of their right to appeal.
3. Upon receipt of the letter of proposed termination, the provider must submit to the SO a written request for appeal postmarked no later than seven calendar days from the date the notice of proposed termination was received by the provider. The original and one copy of the appeal request must be sent to the SO via certified mail. The address is as follows:

Children's Hunger Alliance
Attention: Afonda Johnson
370 South Fifth Street
Columbus, OH 43215

The Program Compliance Specialist will forward a copy of the appeal request to the hearing officials via email.

4. The provider may refute the charges (show they are false), by providing written documentation to the hearing officials. In order for the provider's request for an

appeal to be considered, written documentation must be filed with the hearing officials within ten calendar days of the request for appeal. The Program Compliance Specialist will forward the information to the hearing officials not later than five calendar days after the additional written documentation is filed with the SO. The Program Compliance Specialist will schedule a hearing with the hearing officials within 1 week of receiving the written documentation. The hearing officials will review only the written documentation/record unless there are extenuating circumstances, as defined by the hearing officials. If the hearing officials determine that an in-person hearing is warranted, they will notify both parties. The hearing officials will set the time and place for the review of the provider records and SO records, if there is an in-person hearing.

5. In the case of an in-person hearing, failure of the provider to appear at a scheduled hearing will forfeit the provider's right to appeal.
6. The provider may represent himself, may be represented by another person or may retain legal counsel.
7. Any information on which the sponsor's action was based will be available to the provider for review. The hearing officials will make copies of this information available to the provider, if necessary.
8. The hearing officials will make a decision based solely on information provided by the SO, the provider, and on program regulations, federal and state laws and procedures governing the CACFP.
9. The provider, the SO's executive director, and Ohio Department of Education must be notified in writing of the hearing official's final decision within thirty (30) days from the date of receipt of the request for appeal.
10. The provider may continue to operate during an appeal of proposed termination unless there is evidence of eminent threat or danger to the health or welfare of the children.
11. Providers continuing to operate while appealing the proposed termination will be reimbursed for any eligible meals served during the period of the appeal.
12. During the period of the review by the hearing official, the SO will not take action to collect or offset any overpayment noted in the termination letter and procedures governing the CACFP.
13. The decision by the hearing official is the final administrative decision. There is no further opportunity to appeal to the Ohio Department of Education.
14. If the provider loses the appeal, the termination date of the agreement is the date of the hearing official's decision.

15. The provider will be placed on the National Disqualified List of Providers for period of seven years, unless the provider owes money. In this case, the provider will remain on the list indefinitely.

Appeal Procedure—Notice of Suspension

Whenever a Family Day Care Home Sponsoring Organization suspends the participation of a provider for imminent threat to the safety or health of children, the provider must be notified both verbally and in writing that its participation has been suspended, that the day care home is seriously deficient, and that the sponsoring organization proposes to terminate the provider's agreement for cause. The notification in writing must be sent by certified mail.

1. The notice must specify the serious deficiency(ies) found and of the provider's opportunity for an appeal of the proposed termination.
2. The written notice must inform the provider that participation, including all payments, will remain suspended until the appeal is conducted.
3. The written notice must inform the provider that if the hearing officials overturn the suspension, the provider may claim reimbursement for eligible meals served during the suspension.
4. The written notice must inform the provider that termination of the agreement will result in being listed on the National List of Disqualified Providers. The provider will remain on this list for a period of seven years unless the provider owes money, in which case the provider will remain on the list indefinitely.
5. The written notice must inform the provider that if the provider seeks to voluntarily terminate its agreement after receiving the notice of proposed termination, the provider will still be terminated for cause and placed on the National List of Disqualified Providers.