



Child and Adult Care Food Program Appeal Procedure

A provider who participates in the Child and Adult Food Program (CACFP) under the sponsorship of Adults & Childrens Alliance (ACA) may appeal actions taken by ACA in accordance with this procedure. CACFP appeal procedures are authorized at 7 CFR 226.6(1). The following types of actions are appealable:

- Proposed termination for cause of CACFP agreement between Provider and ACA
- Suspension of Provider's participation in CACFP

To appeal an ACA action:

- Submit your written request for an appeal to: Executive Director, Adults' & Children's Alliance, 10 Yorkton Court, St. Paul, MN 55117. Your request for an appeal must be submitted no later than 10 calendar days after this notice was sent. Your appeal request must include all of the required information listed in (2) Appeal Request and Deadline under Appeal Procedure-Rights and Responsibilities below. If you are appealing a temporary immediate suspension of your license taken by the Department of Human Services (DHS) and have been declared seriously deficient for health and safety with CACFP; then you must also appeal to ACA to avoid termination and disqualification from CACFP

- ACA strongly recommends that an appeal request and any other written documentation be sent in a manner that provides proof of delivery, such as certified mail - return receipt requested.

- Within 10 calendar days of receipt of your appeal request, ACA will notify you by certified mail - return receipt requested that your request has been received. The notification will include the name and contact information for the Appeal Official.

Appeal Procedure - Rights and Responsibilities

(1) **Notice of Action** When an action is being taken or proposed that is subject to appeal according to CACFP regulations, ACA provides notice of the action to the Provider. The notice describes the action being taken or proposed, the basis for the action, and includes this CACFP Appeal Procedure.

(2) **Appeal Request and Deadline** To appeal the Sponsoring Organization's action, the Provider must submit an appeal request in writing to Executive Director, Adults' & Children's Alliance, 10 Yorkton Court, St. Paul MN 55117 no later than 10 calendar days after the date the notice of action is sent. The Sponsoring Organization will acknowledge the receipt of an appeal request by certified mail - return receipt requested within 10 calendar days of ACA's receipt of the request, including the name of the Appeal Official and contact information. **An appeal must include:**

- Provider's name, address, phone number and Provider's CACFP number assigned by ACA.
- Identification of ACA action(s) that are being appealed.
- **If Provider's license is in Temporary Immediate Suspension status, the Provider must inform ACA whether the Provider is appealing the licensing action to (DHS). In this case the ACA appeal decision will be delayed until DHS decision is rendered**
- An indication whether the request is for the appeal to be based on a review of the written records by the Appeal Official or a hearing before the Appeal Official. See Section 7 of this procedure for a list of the Minnesota Department of Education (MDE) actions for which a hearing is not available. - The appeal request must be signed and dated.

(3) **Representation** Provider may represent her/himself, or retain legal counsel, or be represented by another person.

(4) **Review of Record** Information on which ACA's action was based must be available to Provider from the date of receipt of Provider's written appeal request during ACA's regular business hours.

(5) **Opposition** Provider may refute the findings contained in the notice of action by submitting written information to the Appeal Official. In order to be considered, written documentation must be submitted to the Appeal Official no later than 20 calendar days after the receipt of the notice of action unless the Provider's is appealing a "Temporary Immediate Suspension" of the child care license to DHS. If a Provider's is appealing a "Temporary Immediate Suspension" the written documentation must be submitted no later than 20 calendar days after the final action is taken by the licensing authority.

(6) **Hearing** The Appeal Official will hold a hearing if Provider requests a hearing in the written appeal request. If a hearing is requested, ACA will provide at least 10 calendar days advance notice of the time and place of the hearing by certified mail - return receipt requested. At least one ACA representative will attend the hearing to respond to Provider's testimony and answer questions posed by the Appeal Official.

Prior to the hearing, the Appeal Official will review all written information submitted by the Provider and ACA.

If Provider fails to appear at a scheduled hearing, Provider waives the right to a personal appearance before the Appeal Official, unless the Appeal Official agrees to reschedule the hearing.

(7) **Decision without Hearing** In the following situations, no hearing will be held and the Appeal Official will base his or her decision on a review of the written information submitted by the Provider and ACA.

-The Provider did not request a hearing in accordance with the requirements in Section 2 of this procedure.

-The Provider waived the right to a hearing by failing to appear at a scheduled hearing as described in Section 6 of this procedure and the Appeal Official did not reschedule the hearing.

(8) **Appeal Official** The Appeal Official must not have been involved in the action that is being appealed and not have a direct personal or financial interest in the outcome of the appeal. Provider may directly contact the Appeal Official.

(9) **Basis for Decision** The Appeal Official will make a determination based solely on the information provided by Provider, information provided by Sponsoring Organization, Federal and State Laws, regulations, policies, and procedures governing the Program.

(10) **Time for Issuing Decision** Unless the Provider's is appealing a "Temporary Immediate Suspension" of the child care license to DHS, within 60 calendar days of the Appeal Official's receipt of the appeal request, the Appeal Official will inform the Provider of the appeal outcome(s) by certified mail-return receipt requested, with a copy to ACA. This time frame is an administrative requirement for ACA and may not be used as a basis for overturning ACA's action if a decision is not made within the specified time frame . If the Provider is appealing a "Temporary Immediate Suspension" to DHS, the Appeal Official will inform the Provider of the appeal outcome(s) by certified mail-return receipt requested, with a copy to ACA within 60 calendar days after the final action by the licensing authority.

(11) **Final Decision** The determination made by the Appeal Official is the final administrative determination to be afforded to the Provider.

(12) **Record** ACA maintains searchable records of appeals and results, subject to Child and Adult Care Food Program requirements and the Minnesota Government Data Practices Act.

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