

## Colorado Department of Education School Nutrition Unit Appeal Procedures Summer Food Service Program

The Colorado Department of Education (CDE) School Nutrition Unit actions subject to appeal are:

1. Denial of an application for a sponsor or a site for participation in the program
2. Denial of a sponsor's request for an advance payment
3. Denial of a sponsor's claim for reimbursement (except for late submission not approved by Food and Nutrition Services (FNS) under Sec. 225.9(d)(5))
4. Refusal to forward to FNS an exception request for payment of a late claim or a request for an upward adjustment to a claim
5. A claim against a sponsor for remittance of an overpayment
6. The termination of the sponsor or a site
7. Denial of a food service management company's application for registration (FSMC), if applicable; or the revocation of a FSMC's registration, if applicable.

The appeal process is outlined below in accordance with 7 CFR §225.13.

- The sponsor is advised in writing of the grounds upon which the state agency based its action. The notice of action is sent by email and certified mail, return receipt requested. The state agency advises the sponsor that they have the right to appeal the state agency action.
- The sponsor or FSMC has 14 days upon receipt of the adverse action letter to request an appeal; either in person or by filing written documentation with the review official. The written appeal request shall be postmarked within 14 calendar days of the date the sponsor received the notice of action.
- Receipt of the appeal request will be acknowledged by the state agency within 10 calendar days of receipt.
- The appellant is allowed the opportunity to review any information upon which the action was based and is allowed to refute the charges contained in the notice of action 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 days of submitting the appeal request and must clearly identify the state agency action being appealed, and must include a photocopy of the notice of action issued by the state agency.
- A hearing must be held by the review official in addition to, or in lieu of, a review of written information submitted only if the appellant specifies an in person hearing in the letter appealing the action.
- The sponsor may retain legal counsel or may be represented by another person. Failure of the sponsor's representative to appear at a scheduled hearing shall constitute the sponsor'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.

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- If the appellant has requested a hearing, the hearing must be held within 14 days of the receipt for request. But, where applicable, not before the appellant's written documentation is received.
- If the appellant has requested a hearing, the appellant and state agency are notified at least 5 days in advance of the time and place of hearing by written notice, sent by certified mail, return receipt requested.
- The review official has 5 working days to make a determination after the hearing, or within 5 working days after receipt of written documentation if no hearing is held, to make a determination.
- The review official is independent of the original decision-making process and the review official will make a determination based on information provided by the state agency and the appellant and on program regulations.
- The review official will inform the appellant and state agency of the determination by certified mail, return receipt requested.
- The State agency's action remains in effect during the appeal process.
  - Sponsors and sites may continue to operate the program during an appeal of termination. If the appeal results in overturning the state agency decision, reimbursement shall be paid for meals served during the appeal process. However, program operation is not allowed if the state agency's action is based on imminent dangers or 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 action.
- The determination by the state review official is the final administrative determination to be afforded to the appellant.
- The designated hearing official for the Colorado Department of Education School Nutrition Unit is the Senior Policy Consultant, CDE Legislative and Policy Unit.

Appeals must be directed to:  
Brehan Riley, Director  
Colorado Department of Education  
School Nutrition Unit  
1580 Logan Street, Suite 760  
Denver, CO 80203