

COLORADO DEPARTMENT OF EDUCATION (CDE) SCHOOL NUTRITION UNIT APPEAL PROCEDURES
Summer Food Service Program

The appeal process is outlined in 7 CFR §225.13(b).

The 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 FNS under Sec.225.9(d)(5))
 4. Refusal to forward to the US Department of Agriculture (USDA) an exception request for payment of a late claim or a request for an upward adjustment to a claim
 5. A claim against a sponsor for remittance of an overpayment
 6. The termination of the sponsor or a site
- The sponsor is advised in writing of the grounds upon which the State agency based its action. The notice of action, which shall be sent by certified mail, return receipt requested. The CDE School Nutrition Unit advises the sponsor that it has the right to appeal the CDE School Nutrition Unit action.
 - The written appeal request shall be postmarked within 14 calendar days of the date the sponsor received the notice of the denial of all or a part of the Claim for Reimbursement or withholding of payment, and the State agency shall acknowledge the receipt of the request for appeal within 10 calendar days.
 - The sponsor 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 to the review official. To be considered, written documentation must be submitted by the sponsor within seven days of submitting the appeal, 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 will be held by the review official in addition to, or in lieu of, a review of written information submitted by the sponsor only if the sponsor so specifies 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.
 - If the sponsor has requested a hearing, the sponsor and the State agency shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time, date, and place of the hearing.
 - The hearing will be held within 14 days of the date of the receipt of the request for review, but, where applicable not before the sponsor's written documentation is received in accordance with paragraphs (b) (4) and (5) of section §225.13.
 - 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 sponsor, and on Program regulations.
 - Within 5 working days after the sponsor's hearing, or within 5 working days after receipt of written

documentation if no hearing is held, the reviewing official will make a determination based on a full review of the administrative record and inform the sponsor of the determination of the review by certified mail, return receipt requested.

- The State agency's action remains in effect during the appeal process. However, participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action.
- The determination by the State review official is the final administrative determination to be afforded to the sponsor. The designated hearing official for the Colorado Department of Education School Nutrition Unit is the position of Associate Commissioner, Public School Finance.

Appeals must be directed to:

Brehan Riley, Director
Colorado Department of Education
School Nutrition Unit Unit
1580 Logan Street, Suite 760
Denver, CO 80203

