



Arizona Department of Education  
Diane Douglas, Superintendent of Public Instruction

# **DAY CARE HOME COMPLIANCE MANUAL**

## **CHILD AND ADULT CARE FOOD PROGRAM HEALTH & NUTRITION SERVICES**



REVISED: AUGUST 2015

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# **CHAPTER 1**

## **OVERVIEW**

## 1.1 General Information

Good nutrition, the development of healthy eating habits, and learning about food choices are vital building blocks for young children. Provisions must be made to ensure that these building blocks are in place to promote good health throughout life. A growing number of young children receive a significant proportion of their food in child care settings.

Those responsible for feeding children in day care homes have an important responsibility to:

- Serve wholesome and attractive meals that follow the dietary guidelines and meet children's nutritional needs.
- Make meal time a pleasant and sociable experience.
- Provide nutrition education.

Sharing in this responsibility is the State and sponsor staff of the Child and Adult Care Food Program (CACFP). The CACFP is a United States Department of Agriculture (USDA), Food and Nutrition Services (FNS) program that is administered by the Arizona Department of Education (ADE). The primary goal of the CACFP is to improve and maintain the health and nutritional status of children in care while promoting the development of good eating habits. Programs, such as child care, adult care, afterschool care, and emergency care, participating in the CACFP must serve meals to all enrolled participants.

The contents of this manual are based on Federal Regulation 7 CFR 226, Food & Nutrition Service Instructions (FNS 796-2 rev.4), and CACFP policies set forth by the USDA and the ADE. This manual supersedes the contents provided in previous versions. This manual is also intended to be used in conjunction with other CACFP manuals and resources provided by the ADE and the USDA, such as the *CACFP Creditable Foods Guide*, *USDA Handbooks*, and other *applicable trainings, policies, or memos*.

## 1.2 Definitions

**Administrative Duties/Costs** - Necessary, reasonable, and allowable CACFP costs incurred by a sponsoring organization related to the planning, organizing, and managing of CACFP administrative duties. CACFP administrative costs towards labor, benefits, supplies/equipment, rent/mortgage, contracted services, and communications.

**Administrative Personnel** - Includes director, monitor, or staff involved in the planning, organizing, and managing of CACFP administrative duties.

**Adult Participant** – a person enrolled in an adult day care center who is functionally impaired, as defined in this section, or 60 years of age or older.

**Advance** - Payments made to sponsors against future reimbursements that are deducted or recovered at the end of the fiscal year.

**Alternately Approved (AA)** - An unlicensed child care home that has current documentation verifying compliance with the CACFP Child Care Standards for purposes of participation in the Program.

**Arizona Department of Education (ADE)** - The State Agency designated by the legislative authority of the State of Arizona and has been approved by the USDA to administer the CACFP.

**Backup Provider** – An eligible adult who provides care in the provider’s home when he/she is temporarily unavailable to provide child care services. They may also serve as an additional provider to meet ratio requirements (i.e. small group homes).

**Block Claim** - a claim in which the number of meals claimed at a day care home for one or more meal types is the same for 15 consecutive operational days during a claiming period.

**Child and Adult Care Food Program (CACFP)** - A USDA program that provides federal funds to non-residential child and adult day care facilities, emergency shelters and certain after school care programs to serve nutritious meals and snacks.

**Child Care Standards (CCS)** - Standards that must be met and maintained for alternate approval of day care home providers when licensing or approval is not available.

**Child Nutrition Programs (CNP)** - Federally funded programs administered through the USDA. These programs include the CACFP, National School Lunch Program, School Breakfast Program, Summer Food Service Program, Special Milk Program, and Food Distribution Program.

**Child Nutrition (CN) Label** – A voluntary federal labeling program for the CNP. It is an evaluation of a product’s formulation by FNS to determine its contribution toward meal pattern requirements. The program provides CNP operators a warranty against audit claims for CN labeled products if the product is used according to the manufacturer’s directions as printed on the approved CN label. A CN labeled product will always contain the following: the CN logo, which is a distinct border; the meal pattern contribution statement; a unique 6-digit product identification number (assigned by FNS) appearing in the upper right hand corner of the CN logo; the USDA/FNS authorization statement; and the month and year of approval.

**Children** – Persons 12 years of age and younger, children of migrant workers 15 years old or younger, or persons with disabilities as defined in this section.

**Civil Rights** – The USDA prohibits discrimination in CACFP on the basis of race, color, national origin, gender, religion, age, and disability. Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14<sup>th</sup> and Independence Avenue, SW, Washington, DC 20250-9410 or call (202-) 720-5964 (voice and TDD), USDA is an equal opportunity provider and employer. The non-discrimination statement must be included on all materials that are provided to the public (menus, brochures, advertisements, websites, etc.).

**Claim** – submitting a request for reimbursement

**Component** – A food item from one of the four required food groups: milk, fruits/vegetables, grains/bread, and meat/meat alternates.

**Compensation** - Money or other consideration, including goods, services, vouchers, time, government or public expenditures, government or public funding, or another benefit that is received as payment. If a provider receives CACFP reimbursement for a child's meal and/or snack, it is considered compensation according to the Arizona Department of Health Services, Office of Child Care Licensure's definition of compensation in section R9-3-101 of its Arizona Administrative Rules.

**Creditable Foods** - Foods that meet regulations governing the CACFP in terms of nutrient content, meal pattern requirements, standards of identity, and other foods that may be counted toward meeting the requirements for a reimbursable meal.

**Current Income** - Income received by the entire household during the month prior to completing an income application.

**Cycle Menus** - Set(s) of menus planned and rotated for at least a minimum of a four-week interval.

**Daily Meal Production Records for Infants** – A CACFP record the Sponsor uses to record formula and food(s) offered to infants.

**Department of Economic Security (DES)** - The State agency that certifies homes in the State of Arizona for federal and state funded child care recipients.

**Department of Health Services (DHS)** - The State agency that has the statutory authority to license child care centers and certify small group homes in the State of Arizona.

**Dropped for Cause** - The termination of a day care home's Program agreement by the sponsoring organization due to the day care home's violation of the agreement and/or Program non-compliance. A provider may also be dropped for cause due to no longer being eligible (loss of DES or DHS certificate for reasons other than health or safety violations or denial of fingerprint card).

**Dropped for Convenience** - Termination of the day care home's Program agreement by either the sponsoring organization or the child care home, due to considerations unrelated to either party's performance of program responsibilities under the agreement.

**Economic Unit** - A group of related or unrelated individuals sharing housing and/or all significant income and expenses.

**Eligible Children/Child** - (a) Person or persons 12 years old or younger, (b) child(ren) of migrant workers 15 years old or younger, or (c) persons with disabilities as defined in this section.

**Enrolled Child** - A child whose parent or guardian has submitted a signed document which indicates that the child is enrolled for child care, who is present in the child care home for purposes of child care, and who has eaten at least one meal during the claiming period.

**Enrolled Participant** – is an enrolled child or adult participant.

**Facility** – A sponsored family day care home.

**Family Day Care Home** - An organized, nonresidential child care program for children enrolled in a providers home, licensed or approved as a family or group day care home and under the auspices of a sponsoring organization.

**Fiscal Year** – CACFP's federal period of 12 calendar months beginning October 1 of any year and ending with September 30 of the following year.

**Food and Nutrition Services (FNS)** - The division of the USDA that administers the CNP at the federal level.

**Food and Nutrition Services Regional Office (FNSRO)** - One of the seven USDA regional offices that administers the CNP. Arizona is under the Western Region Office (WRO).

**Foster Child** - A child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act, a child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act, or a foster child who a court has placed with a caretaker household. This only applies to children formally placed in foster care by a State child welfare agency or a court. It does not apply to informal arrangements such as caretaker arrangements or permanent guardianship placements that may exist outside of or as a result of State or court based systems. Foster children are considered a household of one.

**Functionally Impaired** – chronically impaired disabled persons 18 years of age or older, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, who are physically or mentally impaired to the extent that their ability to carry out activities of daily living is markedly limited. Activities of daily living include, but are not limited to, adaptive activities such as cleaning, shopping, cooking, taking public transportation, maintaining a residence, caring appropriately for one's grooming or hygiene, using telephones and directories, or using a post office. Marked limitations refer to the severity of impairment, and not the number of limited activities, and occur when the degree of limitations such as to seriously interfere with the ability to function independently.

**Household (Family)** - A group of related or unrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit as defined under the definition of “economic unit.”

**Income Guidelines** - Family size and income standards prescribed annually by the USDA based on the federal poverty guidelines of income at or below 130% for the free category, income above 130% but, at or below 185% for the reduced category, and income above 185% for the paid category.

**Independent Governing Board of Directors** – Applies to all non-profit organizations, and in some cases, for-profits that are required by law to have a board of directors. They must: (1) meet on a regular basis; (2) have the authority to hire and fire the institution’s executive director (i.e. the board must be independent of the executive director’s control); and (3) have the ability to provide adequate oversight of the Program.

**Infant Cereal** – Any iron-fortified dry cereal specially formulated for and generally recognized as cereal for infants that is routinely mixed with formula or breast milk prior to consumption.

**Infant Formula** - Any iron-fortified formula intended for dietary use solely as a food for normal, healthy infants, served in liquid state at manufacturer’s recommended dilution (excluding those formulas specifically formulated for infants with inborn errors of metabolism or digestive or absorptive problems).

**Institution** - A sponsoring organization which enters into an agreement with the State Agency to assume final administrative and financial responsibility for the CACFP operations.

**Internal Revenue Service (IRS)** - The Federal agency that grants non-profit, tax-exempt status to sponsoring organizations.

**Key Staff** – includes the director, assistant director, monitors, accountant (when in house), and any other staff that is directly involved with the administration of the Program.

**Management Plan** - A plan describing the organizational and administrative structure and staff assigned to program management, monitoring, budget, and procedures that will be used to disburse payments to participating child care providers under its program.

**Meals** - Food which is served to enrolled participants while in care, such as breakfast, lunch, supper and snacks, which meets the nutritional requirements as established by the CACFP and are claimed for reimbursement.

**Meal Benefit Income Eligibility Form** – A form completed by each household for a child(ren) enrolled in a Day Care Home, which determines eligibility for participation in the CACFP. These forms are required for any Tier I provider who wishes to claim residential children and for providers who wish to be a Tier II mixed home. These forms are also required for a provider who wishes to be a Tier I home based on his/her own income or approved categorical eligibility (e.g. SNAP beneficiary).

**Meal Counts** – The daily record of meals claimed for each enrolled child that must be recorded by the end of each day.

**Meal Pattern** – CACFP food item requirements for each meal served. The meal pattern is comprised of four groups: milk, fruits/vegetables, grains/bread, and meat/meat substitutes. It

indicates the quantities of food that are required based upon age for the breakfast, lunch, supper, and snack meals.

**Milk** - Pasteurized fluid milk served in CACFP to participants 24 months and older must be: fat-free or low-fat milk, fat-free or low-fat lactose reduced milk, fat-free or low-fat lactose free milk, fat-free or low-fat buttermilk, or fat-free or low-fat acidified milk and meets State and local standards. Whole milk and reduced-fat (2%) milk may not be served to participants over two years of age. In the case of children who cannot consume fluid milk due to medical or other special dietary needs, other than a disability, non-dairy beverages may be served in lieu of fluid milk. Non-dairy beverages must be nutritionally equivalent to milk and meet the nutritional standards for fortification of calcium, protein, vitamin A, vitamin D, and other nutrients to levels found in cow's milk, as outlined in the National School Lunch Program (NSLP) regulations at 7 CFR 210.10 (m)(3).

**Monitoring Visit** – A visit to a provider's home to monitor and record the operation of the CACFP to ensure program compliance and provide technical assistance to the provider.

**Nonresidential** - Enrolled children not in care for more than 24 hours on a regular basis.

**Participant** – means “children” or “adult participant.”

**Permanent Agreement (PA)** – The permanent agreement is an official agreement between a Sponsoring Organization and the State Agency, or Provider and the Sponsoring Organization for the purpose of operating the CACFP in compliance with the regulations governing the CNP. This document must be retained in a permanent file by all parties.

**Persons with Disabilities** – persons of any age who have one or more disabilities, as determined by the State, and who are enrolled in a day care home serving a majority of persons who are age 18 and under.

**Private residence** – the home in which the day care home provider lives.

**Program** - The CACFP authorized by Section 17 of the National School Lunch Act.

**Program Year** - A federal year as defined under the definition of “fiscal year”. CACFP's fiscal year is October 1 – September 31.

**Provider** – An individual who provides child care services in her/his home, regardless of whether compensation is received by the individual in return for providing child care services.

**Provider's Own** – All children living in the provider's household who are part of the economic unit of that household. A provider does not need to be the parent or legal guardian of a residential child for that child(ren) to be considered “provider's own.”

**Reimbursement** - Federal financial assistance paid or payable to institutions for program costs within the rates assigned by the USDA. Sponsoring organizations submit claims on behalf of its contracted providers. Sponsors must distribute payment to providers within five days of receiving payment from ADE. Sponsors also receive reimbursement for its administrative costs incurred to operate the Program. Those administrative costs must be necessary, reasonable, allowable, and approved by ADE through the budget approval process **prior** to incurring those expenses.

**Seriously Deficient (SD)** - The status of a day care home provider or sponsoring organization that has been determined to be non-compliant in one or more aspects in its operation of the program.

**Shift Care** - Term used to describe caring for children during different time periods of the day, not exceeding the approved license capacity at any one time. For example, a provider that cares for a group of children between 7:30am-2:30pm and another group of children from 3:00pm-5:00pm after the first group goes home is providing shift care.

**Specialist of the Day (SOD)** – A CACFP ADE employee that has been assigned a specific day of the month to receive incoming calls and assist Sponsors, providers and the public.

**Sponsor** - Public or Private Organization responsible for the administration of the CACFP as defined under the definition of “Sponsoring Organization”.

**Sponsoring Organization** - A public or non-profit private organization that is entirely responsible for the administration of the CACFP for one or more day care homes.

**State Agency (SA)** - The Arizona Department of Education.

**Suspended** - The status of a day care home that is temporarily ineligible for participation, including program payments. Temporary suspension is due to imminent danger to children from a serious health or safety violation.

**Tier I Day Care Home** – A child care home that is eligible for the higher level of reimbursement.

**Tier II Day Care Home** – A child care home that does not meet the criteria for a tier I child care home.

**Title XX** – The DES’s Child Care Administration’s subsidized Child Care Program that is funded with both state and federal dollars.

**Unannounced Review** – A program review for which no prior notification is given to the sponsoring organization or providers. Provider reviews must be varied in a way that it is unpredictable to the provider.

**United States Department of Agriculture (USDA)** – the Federal agency responsible for the administration of the CNP.

**Value of Assistance** – The value of assistance to participants (children or adult receiving meals) under the program shall not be considered to be income or resources for any purposes under any federal or state laws, including, but not limited to laws relating to taxation, welfare, and public assistance programs.

### 1.3 Acronyms

AA Home - Alternately Approved Home

ADE - Arizona Department of Education

CACFP - Child and Adult Care Food Program

CCS - Child Care Standards

CFR – Code of Federal Regulations

CN Label - Child Nutrition Label

CNP - Child Nutrition Program

DES - Department of Economic Security

DHS - Department of Health Services

FDPIR - Food Distribution Program on Indian Reservation

FNS - Food and Nutrition Services

FNSRO - Food and Nutrition Services Regional Office

FY - Fiscal Year

NDL – National Disqualified List

SD - Serious Deficiency

SO - Sponsoring Organization

SNAP - Special Nutrition Assistance Program (formerly Food Stamps)

TANF - Temporary Assistance for Needy Families

USDA - United States Department of Agriculture

WRO - Western Region Office

## 1.4 Administration

CACFP is authorized at section 17 of the National School Lunch Act (42 U.S.C. 1766). Program regulations are issued by the U.S. Department of Agriculture (USDA) under 7 CFR part 226.

USDA's Food and Nutrition Service (FNS) administers CACFP through grants to States. Their office develops regulations, publications, and forms, and establishes the policies necessary to carry out the Program. Their office is also responsible for oversight of the Program and providing guidance to ensure delivery of Program benefits to eligible children.

In Arizona the Program is administered by the Arizona Department of Education, Health and Nutrition Services.

### PHYSICAL ADDRESS

**Arizona Department of Education  
Health & Nutrition Services  
3300 North Central Avenue, 19<sup>th</sup> Floor  
Phoenix, AZ 85012  
TEL: (602) 542-8700  
FAX: (602) 542-3818 or (602) 542-1531**

### MAILING ADDRESS

**Arizona Department of Education  
Health & Nutrition Services  
1535 West Jefferson Street, BIN #7  
Phoenix, AZ 85007**

### CACFP ARIZONA WEBSITE

<http://www.azed.gov/health-nutrition/cacfp/>

### OTHER HELPFUL WEBSITES

Training Registration: <https://ems.azed.gov/Home/Calendar>  
Code of Federal Regulations (7 CFR 226): [http://www.ecfr.gov/cgi-bin/text-idx?SID=b20ccd0fee9d33cf3e04ad7f7385906e&tpl=/ecfrbrowse/Title07/7cfr226\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=b20ccd0fee9d33cf3e04ad7f7385906e&tpl=/ecfrbrowse/Title07/7cfr226_main_02.tpl)

FNS Instructions (796-2 rev.4): <http://www.fns.usda.gov/sites/default/files/796-2%20Rev%204.pdf>

USDA Website: <http://www.fns.usda.gov/cacfp/child-and-adult-care-food-program>

**USDA eAuthentication Account:**

<https://www.eauth.usda.gov/mainpages/eauthWhatIsAccount.aspx>

### CHILD NUTRITION PROGRAM'S SUPPORTING UNITS

Finance and Operations or Specialist of the Day:  
(602) 542-8700

Claims Payment Information Line  
(602) 542-5300

## 1.5 Administrative Assistance

The Child Nutrition Programs (CNP) staff is committed to assisting sponsors to improve the nutrition and well being of children so these children can achieve their full potential in a safe and healthy environment. If your ADE Program Specialist is out of the office, you may contact the CACFP Specialist of Day for assistance by calling (602) 542-8700, Monday thru Friday, from 8:00 AM - 5:00 PM.

CACFP State agency specialists are responsible for ensuring that eligible sponsors and providers meet the requirements necessary to participate in the program. CACFP specialists shall:

- Conduct training on program and management requirements according to federal and state rules and regulations and all program policies and procedures;
- Evaluate and monitor sponsoring organizations program and management performance to ensure that the CACFP is administered in accordance with Program regulations and requirements and that all program policies and procedures are being adhered to;
- Provide technical and supervisory program assistance; and
- Provide information on audit and program and management evaluation requirements. Investigate complaints received or irregularities noted in connection with the Program.

Additionally, the State Agency is responsible for providing:

- Reimbursement for eligible meals.
- Procedures for appeals affecting sponsor participation or reimbursement.
- Procedures to ensure that there is no discrimination on the basis of national origin, race, color, gender, age, disability. (Not all prohibited bases apply to all programs.)
- Distribution of CACFP forms, guidance, and resources to assist with Program compliance.

## 1.6 Sponsoring Organizations

Sponsoring organizations who participate in the CACFP must follow many rules and regulations as a condition to participation which requires a high level of scrutiny by the ADE, USDA, and auditors. They must comply with:

- All regulations and policies issued by FNS and the USDA,
- All instructions and handbooks issued by FNS and the USDA to clarify or explain existing regulations, and
- All AZ state laws, compliance manuals, policy memos, and instructions issued by the ADE that are consistent with the provisions established in Program regulations.

Eligible non-profit Sponsoring Organizations may enter into an agreement with the ADE to assume the administrative and financial responsibility for CACFP operations. 7 CFR 226.6(b)(1)(xviii) and 7 CFR 226.6(b)(2)(vii) Performance Standards 1 through 3 requires sponsors be financially viable, have internal controls in effect to ensure program accountability, and be administratively capable of operating the Program.

- Performance Standard 1 – Financial viability and financial management. The sponsoring organization must be financially viable. Program funds must be expended and accounted for in accordance with FNS 796-2 rev. 4, and parts 3015, 3016, and 3019 of this title (7 CFR). To demonstrate financial viability, the sponsoring organization must document that it meets the following criteria:
  1. A sponsoring organization must demonstrate that it will use appropriate practices for recruiting facilities;
  2. A sponsoring organization must demonstrate that it has adequate financial resources to operate the CACFP on a daily basis, has adequate sources of funds to continue to pay employees and suppliers during periods of temporary interruptions in Program payments and/or to pay debts when fiscal claims have been assessed against the institution, and can document financial viability (e.g. financial audits, financial statements, etc.); and
  3. A sponsoring organization must be able to demonstrate that the costs in its budget are necessary, reasonable, allowable, and appropriately documented. All accounting must be done in accordance with Generally Accepted Accounting Principles (GAAP) requirements.
- Performance Standard 2 – Administrative Capability. The sponsoring organization must be administratively capable. Appropriate and effective management practices must be in effect to ensure that the Program is operated correctly. To demonstrate administrative capability, the sponsoring organization must document that it meets the following criteria:
  1. A sponsoring organization must demonstrate that it has adequate number and type of qualified staff to ensure the Program operates correctly;
  2. A sponsoring organization must document in its management plan that it employs staff sufficient to meet the ratio of monitors to facilities; and

3. A sponsoring organization must have policies and procedures in writing that assign Program responsibilities and duties, and ensure compliance with civil rights requirements.
- Performance Standard 3 – Program accountability. The sponsoring organization must have internal controls and other management systems in effect to ensure fiscal accountability and to ensure that the Program operates correctly. To demonstrate Program accountability, the sponsoring organization must document that it meets the following criteria:
    1. The sponsoring organization must have adequate oversight of the Program by its governing board of directors;
    2. The sponsoring organization must have a financial system with management controls specified in writing. These written operational policies must assure:
      - i. Fiscal integrity and accountability for all funds and property received, held, and disbursed;
      - ii. The integrity and accountability of all expenses incurred;
      - iii. That claims are processed accurately, and in a timely manner;
      - iv. That funds and property are properly safeguarded and used, and expenses incurred, for authorized Program purposes; and
      - v. That a system of safeguards and controls is in place to prevent and detect improper financial activities by employees.
    3. The sponsoring organization must be able to demonstrate that it maintains appropriate records to document compliance with Program requirements, including budgets, accounting records, approved budget amendments, management plans, and appropriate records on facility operations;
    4. The sponsoring organization must document in its management plan that it will:
      - i. Provide adequate and regular training of sponsoring organization staff and sponsored facilities;
      - ii. Perform monitoring to ensure that sponsored facilities accountably and appropriately operate the Program;
      - iii. Accurately classify day care homes as tier I or tier II; and
      - iv. Have a system in place to ensure that administrative costs funded from Program reimbursements do not exceed regulatory limits.
    5. The sponsoring organization must document in its management plan that all facilities follow practices that result in the operation of the Program in accordance with the meal service, recordkeeping, and other operational requirements. The sponsoring organization must demonstrate that its sponsored facilities:
      - i. Provide meals that meet the meal pattern;
      - ii. Comply with licensure or approval requirements;

- iii. Have a food service that complies with applicable State and local health and sanitation requirements;
- iv. Comply with civil rights requirements;
- v. Maintain complete and appropriate records on file; and
- vi. Claim reimbursement only for eligible meals.

### 1.7 Day Care Home Providers

Eligible Day Care Home (DCH) providers must sign an agreement with a Sponsoring Organization to participate in the CACFP. Day care homes must be licensed, certified, or approved to provide day care services. Providers may be reimbursed for meals that meet all program requirements and are served to enrolled participants while in organized care.

#### **Sources**

- <http://www.fns.usda.gov/cnd/care/CACFP/aboutcacfp.htm>
- 7 CFR 226.2
- 7 CFR 226.6(b)(1)(xvii) and 226.6(b)(2)(vii)
- 7 CFR 226.6(m)-(n)

**CHAPTER 2**

**NEW SPONSOR ELIGIBILITY  
REQUIREMENTS**

## 2.1 Eligibility Requirements

A public agency or a private non-profit institution can apply through the Arizona Department of Education (ADE) to become a day care home sponsoring organization for day care home providers. The institution must meet the following criteria and comply with Program (CACFP) rules and regulations in accordance with 7 CFR 226. The first step is to complete and submit a Preliminary Application and Management Plan and provide the ADE with a letter of intent. The applicant must provide details on the following information in the Preliminary Application and Management Plan:

- Non-profit organizations must show proof of tax-exempt status under the Internal Revenue Code of 1986;
- Description of need – must show that the organization will be providing benefits to underserved providers or participants
- Outreach and recruitment plan
- Organization structure
- Financial management
- Administrative/managerial capability
- Staffing plan
- Staff training
- Recordkeeping requirements
- Provider training and technical assistance:

A final determination and consideration for training and an application will be made available upon receipt of all of the above information.

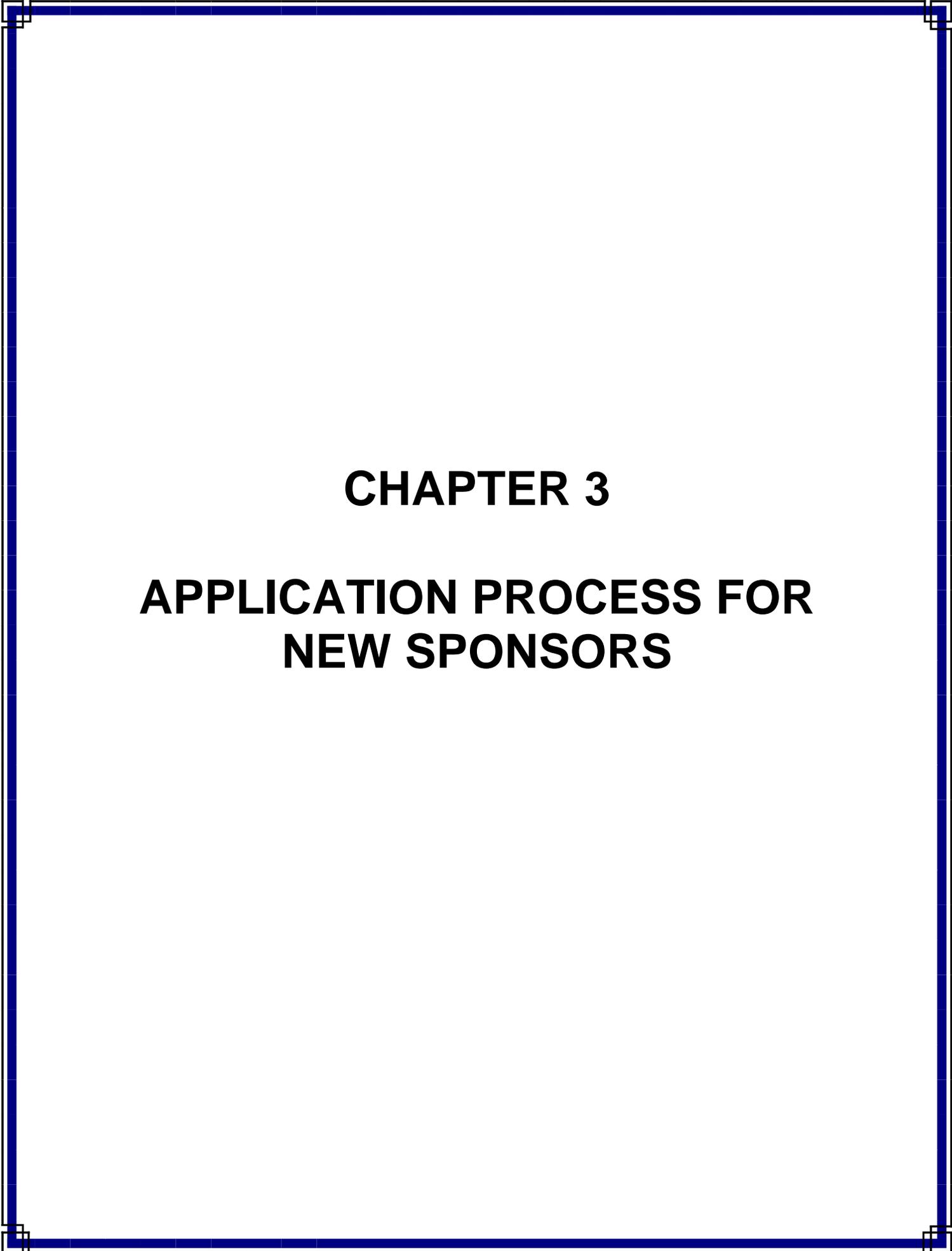
### **Military and Indian Tribe Sponsors**

Sponsors that are federally recognized Indian tribes or military bases may submit and the department shall accept certifications that state that any child care personnel who is employed or who will be employed during the contract term has not been convicted of, admitted to or is not awaiting trial for a felony.

## 2.2 Mandatory Training

Once the criteria of section 2.1 has been met and approved, a one-on-one training with a CACFP specialist will be scheduled to discuss the details regarding performance standards. The institution will be provided with a flash drive containing a copy of the current AZ compliance manual, FNS Instructions 796-2 Rev.4, USDA handbooks, Meal Benefit Income Eligibility Forms, meal pattern posters, important websites, administrative review procedures, civil rights complaints of discrimination, current application, and many other resources for compliance and assistance. In addition the specialist will discuss program policy including:

- Performance standards
- Financial management
- Review of the management plan
- Review of budget requirements
- Allowable versus unallowable costs (FNS 796-2 rev.4)
- Reimbursement rates
- Serious deficiency and suspension
- Appeal procedures
- Income eligibility and tiering
- Meal pattern requirements
- Monitoring and training requirements
- State reviews
- Fingerprinting
- Types of home approval
- Inspections
- Menus and meal counts
- Provider agreements/applications/files
- Nutrition education
- Civil rights
- An overview of procurement requirements



**CHAPTER 3**

**APPLICATION PROCESS FOR  
NEW SPONSORS**

### 3.1 Application Packet

Once training has been completed the applicant will receive an application packet. The following must be completed and submitted to the Arizona Department of Education (ADE) within 90 days of receiving training from ADE:

- Signed application & management plan checklist
- Proof of non-profit status
- Excel budget packet and all supporting documentation
- Written compensation policy, staffing plan, travel plan, communications plan, and procurement plan
- Allocation plan, if applicable
- Copy of current financial statements (statement of financial position, statement of activities, statement of cash flows, and notes) and three months of bank statements showing sufficient funds
- Proof of non-Program funds that can be used to pay for over claims or unallowable costs
- Management Plan with required attachments
- Outside employment policy
- Home Review/Monitoring Form for approval (*No prototypes provided*)
- Provider Application for approval (*English & Spanish prototypes provided*)
- Child Enrollment Application for approval (*English & Spanish prototypes provided*)
- Current information on:
  1. The total number of children enrolled in all homes in the sponsorship;
  2. An assurance that day care home providers' own children whose meals are claimed for reimbursement in the Program are eligible for free or reduced-price meals;
  3. The total number of tier I and tier II day care homes that it sponsors;
  4. The total number of children enrolled in tier I day care homes;
  5. The total number of children enrolled in tier II day care homes; and
  6. The total number of children in tier II day care homes that have been identified as eligible for free or reduced-price meals.
- Provider list: Name, Address, Mailing Address, Phone Number, Date of Birth, Licensed or AA
- Verification that all providers have received training (agenda and attendance logs)
- A list of all providers residing in a Tier II Area, that are eligible for Tier I benefits on the basis of their Participation in the Supplemental Nutrition Assistance Program (SNAP)
- Providers must document that they meet Program licensing/approval requirements
- A copy of the written notification to parents
- (2) Authorized Principal Letters (must include the executive director)

- Most recent 990 or 990EZ
- (2) Governing Board Minutes (the last 2)
- Civil Rights Pre-Award Compliance Review
- Civil Rights Data Collection (1 for each county served)
- Procurement Standards and Guidelines
- Free and Reduced Price Policy Statement (including confirmation that the statement was sent to a media source)
- Signed Copy of New Sponsor Training Checklist and Copy of Training Certificate
- CNP Web/Common Logon Agreement
- Sponsor/Site Add, Change, Delete Form
- DUNS Number Worksheet
- AZ W-9 Tax Form
- List of Board of Directors with addresses and dates of birth, including the chairman or president of the board
- Permanent Agreement (2 signed originals - 1 will be signed, approved, and returned to you for your file)

All written policies and procedures must be on the sponsoring organizations letterhead, include the approved non-discrimination statement, and must be signed and dated by all appropriate staff, including the board of directors. Organize policies according to the Management Plan Attachments cover sheets provided with the application. Sponsoring organizations may choose to develop a policies and procedures manual. In this case, the sponsor's letterhead only needs to be on the cover, rather than on each page.

All forms must be on the sponsoring organizations letterhead and include the approved non-discrimination statement.

All supporting documentation and financial information must be in the name of the sponsoring organization applying for the Program.

Sponsors may make changes to their budget throughout the fiscal year. Sponsors may shift small amounts of funds between line items or increase or decrease a single line item, as long as no line item change exceeds a 10% change, including the overall total of the budget. When the adjustments made are 10% or less, the sponsor should document the changes and send the ADE written notification of the changes being made. If there are any conflicts with the changes made or if further documentation is necessary (i.e. prior written approval, disclosures), the ADE will notify the sponsor and request the documentation needed. Any changes to line items or the total budget that exceeds 10% requires a fully revised budget that must be approved by the ADE prior to the new expenses being incurred.

## **3.2 Complete Application**

Upon receipt of the application, the administrative staff will date stamp and log the application as being received. It will be assigned to a CACFP specialist who will review the packet to ensure it meets all regulatory requirements and contains all the necessary supporting documentation and signatures. Once the specialist determines the application is complete, the packet is forwarded to the CACFP Director for a second level review. Once the application packet has been deemed complete by the director, the ADE has 30 days from the date of completion to approve the application.

## **3.3 Incomplete Application**

If it has been determined that the application is missing information, unclear, or requires additional information, a CACFP specialist will contact the applicant and provide them with further instructions and an opportunity to provide the requested information. If the applicant is unable or unwilling to provide the missing or incomplete information, the application for sponsorship will be denied. An incomplete application will be returned to the applicant within 30 days of receipt. The applicant will be provided appeal rights along with the notification that the application is being denied and the reasons for the determination. In addition, the applicant will be informed that the organization may submit a completed application at any time and that the applying organization can contact a CACFP specialist for assistance.

### 3.4 Start-up Funds

Start-up funds are available to eligible prospective sponsoring organizations and participating sponsoring organizations with less than 50 day care homes under its jurisdiction at the time of application who want to develop Program operations. These funds are available only once for any sponsoring organization meeting eligibility criteria. Start-up funds may not be used to establish a non-profit organization.

To receive start-up funds, the sponsoring organization must:

- Be a public organization or a private nonprofit organization having tax-exempt status under the United States Internal Revenue Service Code of 1986;
- Have a history of managing funds and ongoing activities in public or private programs;
- Have an acceptable and realistic plan for recruiting day care homes\*, including the method of contacting providers. This plan must include estimates of the number of potentially eligible homes to be recruited;
- Have developed an acceptable budget and management plan approved by the ADE; and
- Have a plan for conducting pre-approval visits and training.

\*Homes already participating on the Program may not be recruited. If the organization discovers that the provider is already on the Program, recruiting must be immediately discontinued.

Once the potential new sponsoring organization has determined that it meets the criteria listed above and has been approved by the ADE to participate in the CACFP, it should contact the ADE to obtain a copy of the start-up application.

The amount of start-up funds granted will be between one and two months' anticipated administrative reimbursement. Start-up funds will not be granted for more than 50 homes. A Sponsoring Organization with fewer than 50 homes at the time of application will receive start-up funds only for the additional homes needed to total 50 homes. [Example: If a new sponsor has 40 homes, the sponsor is only eligible for start-up funds to recruit an additional 10 homes.] These funds must not be used for outreach to providers already participating in the CACFP under another Sponsoring Organization. The ADE will monitor use of start-up funds. The Sponsoring Organization will be notified of approval or denial of start-up funds within 30 days of the receipt of a complete and correct start-up application.

If an incomplete application is received, the ADE will notify the organization within 15 calendar days after its receipt, that additional information is required. The ADE will help the sponsoring organization complete the application if assistance is needed. If the ADE denies the sponsor's application for start-up payments, it will describe the reasons why it was denied and will include the ADE administrative review procedures.

If the application for start-up funds is approved, a letter of approval will be sent to the Sponsoring Organization and the organization's chief officer will sign an agreement to receive and utilize start-up funds. The agreement details how the Sponsoring Organization will use the start-up funds and how long it has to initiate Program operations in day care homes. At the end

of this time, the sponsor must submit source documentation of activities performed and costs incurred for review by the ADE.

The costs incurred for the purpose of beginning CACFP operations must be accounted for separately from monthly administrative costs. These costs should not be reported as administrative costs on the monthly claim for reimbursement. At the end of the predetermined timeframe, the monies spent for start-up operation will be reconciled against the monies issued for start-up, by the ADE. The Sponsoring Organization will be required to pay back any monies not used or any funds received in excess of actual costs incurred.

Approved Sponsoring Organizations must make every effort to initiate their planned start-up activities within the timeframes set in the agreement. If this cannot be done, the ADE may demand full or partial repayment of the start-up money.

### **Sources**

- 7 CFR 226.6(b)(1) and (2)
- 7 CFR 226.6(c)(1)
- 7 CFR 226.15(b)
- 7CFR 226.16(b)
- 7 CFR 226.12(b)

## **CHAPTER 4**

# **APPLICATION PROCESS FOR RENEWING SPONSORS**

## 4.1 Mandatory Training

Sponsoring Organizations must complete annual training provided by the ADE in order to renew their agreement each year. Upon completion of the training, sponsors will receive the renewal application packet.

## 4.2 Renewal Application

Sponsors must renew their application for participation in CACFP at the end of every fiscal year (Note: fiscal year runs October 1 thru September 30). Applications may be completed and submitted as soon as the sponsor completes the annual training provided by the ADE; however, it is due to the ADE no later than September 1<sup>st</sup> (or the next business day if the first falls on a weekend). The application includes the following information:

- Signed application and management plan checklist
- Excel budget packet and all supporting documentation
- Updates to written compensation policy, staffing plan, travel plan, communications plan, procurement plan,
- Allocation plan, if applicable
- Copy of current financial statements (statement of financial position, statement of activities, statement of cash flows, and notes)
- One month's bank statements with all supporting documentation
- Proof of non-Program funds that can be used to pay for over claims or unallowable costs
- (A) Management plan - include all requested attachments  
OR  
(B) Annual renewal certification statement and addendum to management plan, if sponsor qualifies\*
- New or revised policies and procedures
- Verification that all providers have received annual training (agenda and attendance logs)
- Home review/monitoring form for approval (*No prototypes provided*)
- Provider application for approval (*English & Spanish prototypes provided*)
- Child enrollment application for approval (*English & Spanish prototypes provided*)
- (2) Authorized principal letters (must include the executive director)
- Most recent 990 or 990EZ
- Governing board minutes (the last 2)
- List of Board of Directors with addresses and dates of birth, including the chairman or president of the board
- Civil rights pre-award compliance review
- Civil rights data collection (1 for each county served)
- Procurement standards and guidelines
- Public release (including confirmation that the release was sent to a media source)
- Copy of renewal certificate
- Provider list: name, address, mailing address, phone number, date of birth, licensed or AA

- A list of all providers residing in a Tier II Area, that are eligible for Tier I benefits on the basis of their Participation in the Supplemental Nutrition Assistance Program (SNAP)
- A copy of the written notification to parents
- Three months of bank statements (as needed)

\* If a sponsoring organization is in compliance with all three performance standards described in section 1.6 and as listed in 7 CFR 226.6(b)(1)(xviii) and 7 CFR 226.6(b)(2)(vii), the organization is not required to submit a new management plan. The ADE may request a new management plan at any time, if it determines a sponsoring organization is not in compliance with the performance standards.

All written policies and procedures should be on the sponsoring organizations letterhead, must include the approved non-discrimination statement, and must be signed and dated by all appropriate staff, including the board of directors. Sponsoring organizations may choose to develop a policies and procedures manual. In this case, the sponsor's letterhead only needs to be on the cover, rather than on each page.

When feasible, all forms should be on the sponsoring organizations letterhead and must include the approved non-discrimination statement.

All supporting source documentation and financial information must be in the name of the sponsoring organization applying for the Program.

A CACFP specialist will review the application to ensure it meets all regulatory requirements, contains all the necessary supporting documentation, and contains all signatures and dates. The specialist will provide the sponsoring organization technical assistance and an opportunity to revise or provide any missing or incomplete information. Once the specialist determines the application is complete, the packet is forwarded to the CACFP Director for a second level review. Once the application packet has been deemed complete by the director, the ADE has 30 days from the date of completion to approve the application.

Sponsors may make changes to their budget throughout the fiscal year. Sponsors may shift small amounts of funds between line items or increase or decrease a single line item, as long as no line item change exceeds a 10% change, including the overall total of the budget. When the adjustments made are 10% or less, the sponsor should document the changes and send the ADE written notification of the changes being made. If there are any conflicts with the changes made or if further documentation is necessary (i.e. prior written approval, disclosures), the ADE will notify the sponsor and request the documentation needed. Any changes to line items or the total budget that exceeds 10% requires a fully revised budget that must be approved by the ADE prior to the new expenses being incurred.

#### 4.4 Expansion Funds

Expansion funds may be provided to a current sponsoring organization for expansion into rural or low-income areas **under-served** by participating sponsoring organizations. An under-served area is one in which day care homes may wish to participate but cannot because a sponsoring organization does not provide CACFP services in their area.

Expansion fund availability is limited to a participating sponsoring organization of day care homes that has already used start-up funds and a period of 12 months have elapsed after the organization satisfied its obligations under its start-up agreement with ADE. Expansion funds are also available to organizations with more than 50 homes.

A sponsoring organization applying for expansion funds must submit an expansion grant application to the ADE. The application can be obtained by contacting the ADE. The application requires:

- A plan detailing activities for recruiting day care homes which is acceptable and realistic (including method of contacting providers)
- A detailed budget, including supporting source documentation
- Time lines for the expansion operation
- Goals the sponsoring organization expects to accomplish with the expansion funds
- Documentation that the proposed expansion area meets rural or low-income area standards and are currently under-served by sponsors
- A plan for conducting pre-approval visits and training

The sponsoring organization will be notified of approval or denial of expansion funds within 30 days of the receipt of a complete and correct Expansion Grant Application.

If an incomplete application is received, the ADE will notify the organization that additional information is required. The ADE will help the sponsoring organization complete the application if assistance is needed. If the ADE denies the sponsor's application for expansion payments, it will describe the reasons why it was denied and will include the ADE administrative review procedures.

If the application for expansion funds is approved, a letter of approval will be sent to the sponsoring organization. The costs incurred for the purpose of expanding CACFP operations must be accounted for separately from monthly administrative costs. These costs should not be reported as administrative costs on the monthly claim for reimbursement. At the end of the predetermined time frame for expansion, the ADE will reconcile the costs with grant payments issued. The ADE will determine if the plan of action was followed and if the recruitment efforts were successful. A sponsoring organization will be required to pay back any unused funds or fund in excess of actual costs incurred.

A sponsoring organization applying for expansion funds may receive an amount equal to that of 50 homes times the current maximum allowable administrative rate times two months.

Sponsoring organizations may apply for lesser amounts.

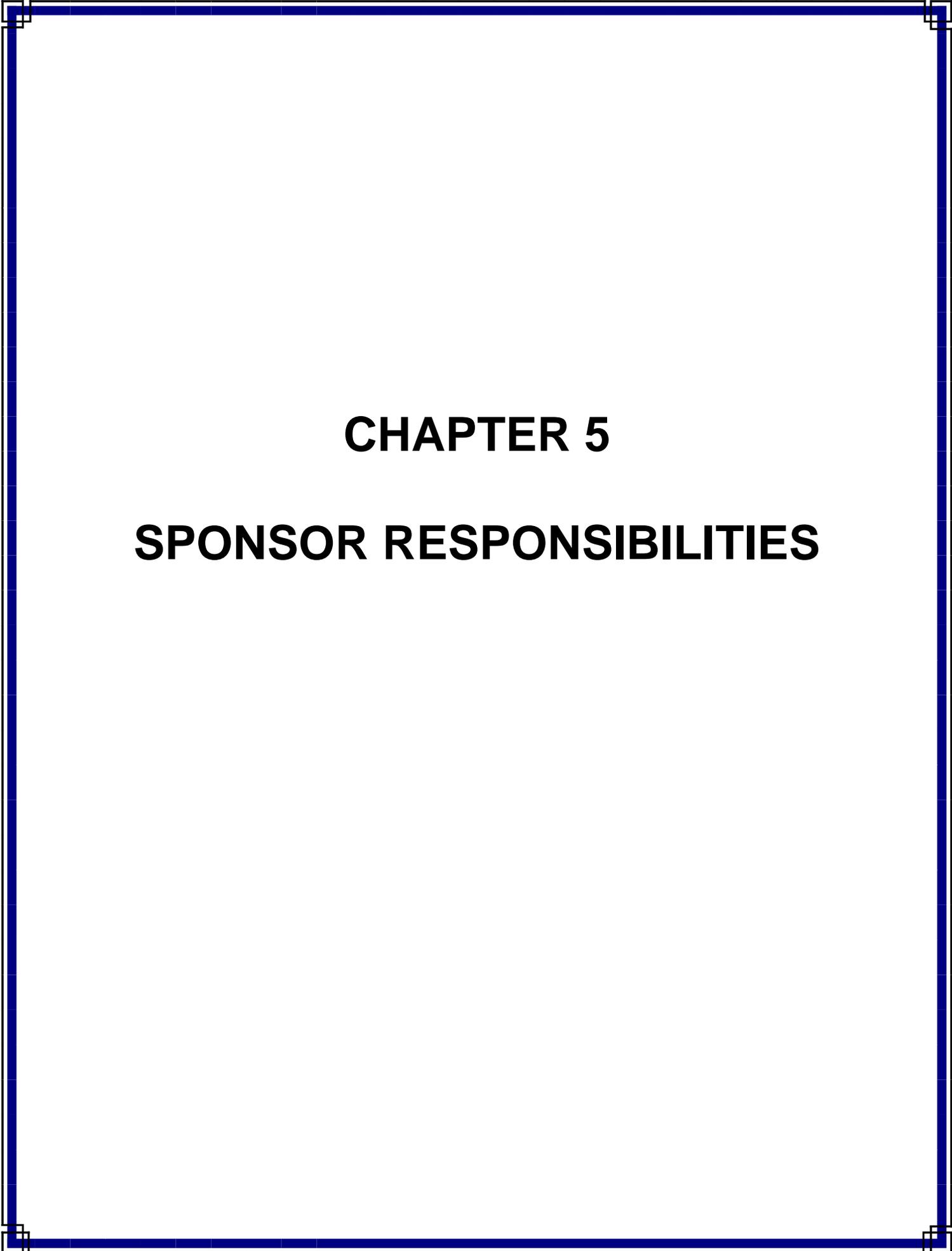
Upon approval of its application, the sponsoring organization will sign an agreement detailing how and during what time period it will use the expansion funds to provide CACFP benefits to additional children.

These funds are generally available only once. However, if a sponsoring organization has satisfactorily expanded into the areas for which its initial or prior expansion funds application was approved, it may apply for further expansion funding to reach additional **under-served** day care homes in low-income or rural areas. This application must justify the need for further expansion and may be approved by the ADE only with the concurrence of the appropriate Food and Nutrition Service Regional Office. Before the organization can reapply for additional expansion funds; (A) a period of 12 months must have elapsed since the sponsoring organization has satisfied all obligations under its initial or prior expansion agreement with the ADE and (B) the new request must be for expansion into an area(s) other than that specified in their initial or prior request.

Approved sponsoring organizations must make every effort to initiate their planned expansion activities within the timeframes set in the agreement. If this cannot be done, the State agency may demand full or partial repayment of the expansion money.

#### **Sources**

- 7 CFR 226.6(b)(2) and (3)
- 7 CFR 226.6(c)(2)
- 7 CFR 226.6(f)
- 7 CFR 226.12(b)
- 7 CFR 226.15(b)
- 7 CFR 226.16(b)



# **CHAPTER 5**

## **SPONSOR RESPONSIBILITIES**

## 5.1 General Requirements

Eligible non-profit sponsoring organizations who enter into an agreement with the ADE assume final administrative and financial responsibility for CACFP operations. Sponsoring organizations must meet all three performance standards as described in 7 CFR 226.6 and in section 1.6 of this manual. In summary, sponsors must be financially viable, have internal controls in effect to ensure program accountability, and be administratively capable of operating the Program. Sponsoring organizations must have adequate written policies and procedures that clearly describe the sponsor's internal processes and controls to support its administrative capability and accountability. Sponsors must also have adequate tracking systems to ensure all timelines are met and to document Program activities.

Sponsoring organizations must submit its outside employment policy with its initial application and anytime updates are made. The policy must restrict other employment by employees that interferes with an employee's performance of Program-related duties and responsibilities, including outside employment that constitutes a real or apparent conflict of interest. Due to the similar nature of the duties performed by staff for sponsoring organizations and provider, staff of sponsoring organizations may not be providers or offer back-up services for providers.

Sponsoring organizations that employ more than one person may not base payment (including bonuses or gratuities) to its employees or contractors solely on the number of new family day care homes recruited for the sponsoring organization's Program. No sponsoring organization may contract out for management of the Program.

Outreach and recruiting is a responsibility of the sponsoring organization and should be limited to providers who are not currently participating with another sponsoring organization and are in underserved areas. If a sponsoring organization contacts a potential provider in an attempt to enroll him/her, and the provider is already enrolled in the CACFP, all recruitment efforts should be discontinued. If the sponsor discovers that the provider is on the NDL, the sponsor may not enroll the provider on the Program.

Sponsoring organizations must obtain an eAuthentication account with level one clearance to obtain access to USDA's NDL. The purpose of maintaining the NDL and making it available via the internet to sponsoring organizations is to provide a tool for promoting CACFP integrity. The NDL helps preclude several potential integrity violations from occurring by preventing:

- Institutions whose Program agreements were terminated for cause in one State from moving to another state and reapplying for Program participation;
- Individuals responsible for serious mismanagement from continuing to be involved in Program administration by forming a new corporate entity and entering the Program under a different organizational name;
- Individuals associated with a disqualified institution from re-entering the Program as a Day care home provider, as a principal with another institution, or as a principal in a sponsored center; and
- Day care home providers terminated for cause by one sponsoring organization from re-entering the Program under the auspices of a different sponsoring organization

To obtain the USDA eAuthentication account with level one access, go to the following page:  
<https://www.eauth.usda.gov/mainpages/eauthWhatIsAccount.aspx>.

Once level one access has been approved and credentials have been established, the NDL can be accessed at the following location:

<https://www.eauth.usda.gov/Login/login.aspx?zone=z2&TYPE=33554433&REALMOID=06-33a06771-7fc8-44c5-b003-a0631c8d244e&GUID=&SMAUTHREASON=0&METHOD=GET&SMAGENTNAME=-SM-MqA2EGHiiuF6qrkXZS9U5Kkn9laZnH0WTFX%2bCUiybmW0JDVI4xSClzaqxyseaE5r&TARGET=-SM-HTTPS%3a%2f%2fsnp%2efns%2eusda%2egov%2fndlweb%2fWelcome%2eaction>

Sponsoring organizations must provide a notice to parents, in a form and, to the maximum extent practicable, language easily understandable by the participant's parents or guardians. The notice must inform them of their participation in CACFP, the Program's benefits, the name and telephone number of the sponsoring organization, and the name and telephone number of the State agency responsible for administration of CACFP. Sponsors must also notify each of its day care home providers that unannounced reviews will be conducted. A copy of these notifications must be submitted to the ADE and be maintained on file in the sponsoring organizations office. The Building for the Future flyer meets this requirement, as long as it contains all of the above information.

Each sponsor must ensure that parents of enrolled children are provided with current information on the benefits and importance of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and the eligibility requirements for WIC participation.

Sponsoring organizations must annually inform tier II day care home providers that the providers may ask for a reclassification to be considered when new census data become available each year and that reclassification may be made at any time for tier II homes.

Before sponsoring organizations expend administrative funds to assist family day care homes in becoming licensed or approved, they shall obtain the following information from each such home: a completed free and reduced price application which documents that the provider meets the Program's income standards; evidence of its application for licensing and official documentation of the defects that are impeding its licensing approval; and a completed CACFP application. These funding requests are limited to \$300 per home and are only available to each home once.

## 5.2 Sponsor Recordkeeping Requirements

Sponsoring organizations are required to maintain records to fully support the monthly claim for reimbursement and compliance with program regulations. All sponsoring organizations must have a written policy pertaining to their recordkeeping procedures. All records shall be retained for a period of five years after the date of submission of the final claim for the fiscal year to which they pertain. If audit findings have not been resolved, the records shall be retained beyond the end of the five year period for as long as it may be required for the resolution of the issues raised by the audit or review. The following records must be maintained by the sponsoring organization:

- Agreement and application - sponsors must keep on file a copy of the Permanent Agreement signed by the ADE and copies of all applications and supporting documents submitted to the ADE.
- Enrollment records:
  1. Sponsors must maintain copies of the enrollment form for each child enrolled at each day care home, including the provider's own children. Providers must notify their sponsor immediately if there are any changes in enrollment.

Children do not enroll in the CACFP; they enroll in the day care home. An enrollment form must be complete and on file before any child care is provided and must be updated annually. It must include the child's name and date of birth, the hours and days of the week that child care is to be provided, what meals will be served to the child(ren), and be signed and dated by a parent or guardian. Providers may not receive reimbursement for meals served to un-enrolled participants or children that are outside of the regulatory age requirements. Enrollment forms are valid for the full 12 months. They are considered current and valid until the last day of the month in which the form was dated one year earlier. If there are any gaps in enrollment, meals during the gap period are not reimbursable.

When parents or guardians work swing or rotating shifts, they should note on the enrollment forms that they work multiple shifts and that their child(ren) will be in care for different hours on different days. Although their schedules may be unpredictable, parents or guardians should estimate the hours and days they expect that their children will most often be in care.
  2. Sponsors must collect and maintain meal benefit income eligibility forms to determine the eligibility of providers own children for meal reimbursements. Income eligibility forms must be updated annually and may not be more than 12 months old. They are considered current and valid until the last day of the month in which the form was dated one year earlier.
- Meal counts - daily records indicating the number of participants in attendance and the daily meal counts, by type (breakfast, lunch, supper, and snacks), served to participants must be reviewed and kept on file to support reimbursable meals claimed. The ADE and sponsors may require family day care homes to record meal counts at the time of meal service only in day care homes providing care for more than 12 children in a single day, or in day care homes that have been found seriously deficient due to problems with their meal counts and claims. Meals served in excess of the provider's ratio requirements or outside of approved meal times must be disallowed.

- Menus - sponsors must review and maintain menus from the provider to support reimbursable meals claimed. Refer to chapter 10 for more information regarding meal pattern and documentation requirements. Menus must be correctly dated. Infant meal records should be separate from menus for children one year and older.
- Meal Benefit Income Eligibility Forms – must be maintained on file to support Tier I providers who qualify by their own household income and/or who wish to claim their own children and for Tier II providers who have elected to collect household income information to determine the reimbursement level of each participant individually. The income eligibility forms contain sensitive personal information and must be stored securely to protect that information.
- Provider application - each provider must have a current application on file. The application includes general information regarding the provider's home and its accessibility, the provider's typical days and hours of care, and the meals types and times the provider regularly serves and wishes to claim. If the provider wants to include non-routine days (i.e. school holidays, occasional weekends) and meals, the provider may specify those days and meals (including their times) in the space provided on the application or by attaching additional information. Provider applications must be completed at a minimum of every two years. If any of the provider's information has changed the provider will be responsible for completing a new provider application as often as necessary.
- Training records (providers and staff) - information on training session date(s) and location(s), as well as topics presented and names of participants, including their signature, must be maintained on file to support all training conducted. Refer to section 6.4 of this chapter for further details regarding training requirements.
- Monitoring records – records supporting monitoring efforts must be maintained on file. This includes information regarding the location and dates of each day care home review, any problems noted, and the corrective action required. Refer to section 6.3 of this chapter for further details regarding monitoring requirements.
- Tiering information – sponsors must maintain information used to classify day care homes as tier I day care homes, including official source documentation. Refer to chapter 11 for more information regarding tiering requirements.
- Sponsor/Provider Permanent Agreement – sponsoring organizations are required to enter into and maintain a copy of a permanent agreement with each provider that outlines both the sponsor and provider's responsibilities. This permanent agreement is a contract between both parties for participation on the CACFP. Although this is a permanent agreement, the sponsor may terminate a family or group home for cause or convenience. In addition, a provider still has the right to transfer once per fiscal year or terminate the contract at any time for convenience. At a minimum, the agreement must contain the following information:
  1. The right of the sponsoring organization, the ADE, the USDA, and other State and Federal officials to make announced or unannounced reviews of the day care home's operations and to have access to its meal service and records during normal hours of operation.
  2. The responsibility of the sponsoring organization to require key staff to receive Program training prior to the day care home's participation in the Program, and at least annually thereafter, and the responsibility of the day care home to participate in that training.

3. The responsibility of the day care home to prepare and serve meals which meet the meal patterns.
4. The responsibility of the day care home to maintain records of menus, and of the number of meals, by type, served to enrolled children.
5. The responsibility of the day care home to promptly inform the sponsoring organization about any change in the number of children enrolled for care or in its licensing or approval status.
6. The meal types approved for reimbursement to the day care home by the ADE.
7. The right of the day care home to receive in a timely manner the full food service rate for each meal served to enrolled children for which the sponsoring organization has received payment from the State agency. However, if, with the home provider's consent, the sponsoring organization will incur costs for the provision of program foodstuffs or meals on behalf of the home, and subtract such costs from Program payments to the home, the particulars of this arrangement shall be specified in the agreement. The sponsoring organization must not withhold Program payments to any family day care home for any other reason, except that the sponsoring organization may withhold from the provider any amounts that the sponsoring organization has reason to believe are invalid, due to the provider having submitted a false or erroneous meal count.
8. The right of the sponsoring organization or the day care home to terminate the agreement for cause or, subject to stipulations by the ADE, convenience.
9. A prohibition of any sponsoring organization fee to the day care home for its Program administrative services.
10. If the State agency has approved a time limit for submission of meal records by day care homes, that time limit shall be stated in the agreement.
11. The responsibility of the sponsoring organization to inform tier II day care homes of all of their options for receiving reimbursement for meals served to enrolled children. These options include: electing to have the sponsoring organization attempt to identify all income-eligible children enrolled in the day care home, through collection of free and reduced price applications and/or possession by the sponsoring organization or day care home of other proof of a child or household's participation in a categorically eligible program, and receiving tier I rates of reimbursement for the meals served to identified income-eligible children; electing to have the sponsoring organization identify only those children for whom the sponsoring organization or day care home possess documentation of the child or household's participation in a categorically eligible program, under the expanded categorical eligibility provision contained in §226.23(e)(1), and receiving tier I rates of reimbursement for the meals served to these children; or receiving tier II rates of reimbursement for all meals served to enrolled children.
12. The responsibility of the sponsoring organization, upon the request of a tier II day care home, to collect applications and determine the eligibility of enrolled children for free or reduced price meals.
13. The State agency's policy to restrict transfers of day care homes between sponsoring organizations.
14. The responsibility of the day care home to notify their sponsoring organization in advance whenever they are planning to be out of their home during the meal

service period. The agreement must also state that, if this procedure is not followed and an unannounced review is conducted when the children are not present in the day care home, claims for meals that would have been served during the unannounced review will be disallowed.

15. The day care home's opportunity to request an administrative review if a sponsoring organization issues a notice of proposed termination of the day care home's Program agreement, or if a sponsoring organization suspends participation due to health and safety concerns, in accordance with §226.6(1)(2).
  16. If so instructed by its sponsoring organization, the day care home's responsibility to distribute to parents a copy of the sponsoring organization's notice to parents.
- Fire and health inspections – copies of health and fire inspections conducted by local authorities must be maintained on file for all alternately approved homes.
  - Fingerprint cards - sponsors must maintain a copy of each provider's fingerprint clearance card or fingerprint application (new provider's only). Sponsors must also maintain a copy of the fingerprint clearance card for all back-up providers.
  - Copy of license, certification, or standards – sponsors must maintain a copy of each provider's license (DHS only), certificate (DES, tribal, military only), or child care standards (AA only). Providers must notify their sponsoring organization immediately if there are any changes in license or approval status.
  - Cost documentation – sponsors must maintain documentation to support Program costs. This includes, but is not limited to:
    1. Income to the Program. This includes all funds available, including CACFP reimbursement, to pay for Program related expenses;
    2. Copies of all claims for reimbursement submitted to the ADE;
    3. Receipts for all Program payments received from the ADE; and
    4. Information regarding the dates and amounts of disbursement to each day care home.

In addition to the above, sponsors must have original source documentation to support the following budget line items when they are approved and charged to the Program:

1. Labor
2. Benefits
3. Depreciation and Use Allowance
4. Equipment or Rental Lease
5. Publishing, Printing, and Reproduction
6. Materials and Supplies
7. Facilities and Space Rental
8. Utilities
9. Communications
10. Travel for Program Operations
11. Participant Training and Other Support

12. Meetings, Conferences, and Staff Training
  13. Contracted Services
  14. Insurance and Bonding
  15. Membership, Subscriptions and Professional Activities
  16. Other Administrative Costs (includes advertising, licensing related costs, audits, etc.)
- Electronic records – sponsors may store their records in hard copy format or electronically. Electronic records must be made immediately available for review at any time during approved business hours. It is highly recommended that a backup system be implemented in the event electronic records cannot be accessed for any reason.
  - Tracking Logs – sponsors should maintain tracking logs to document:
    1. Compliance with the serious deficiency process;
    2. Compliance with training and monitoring requirements;
    3. Provider licensing, certification, or approval requirements (including fingerprints, inspections, CPR/First Aid, water safety certification, etc.);
    4. Provider eligibility requirements (e.g. tiering information, income eligibility, etc.);
    5. Providers who give advance notice of being out of the home during an approved meal service time (dates and times of notification are critical);

Sponsors are not allowed to establish “grace periods” for new or continuing providers. Program requirements must be complied with as soon as they start participating in the Program. Any meal(s) that do not meet the meal pattern requirements or that are not appropriately documented to support a reimbursable meal (i.e. lack of or incomplete attendance records, meal counts, etc.) must be disallowed.

Failure to maintain such records shall be grounds for the denial of reimbursement.

### 5.3 Monitoring Requirements

Monitors play a critical role as the link between the sponsoring organizations and the day care home provider. They provide a first-hand accounting of how the providers are operating the Program. They must develop and maintain open communications and cooperative relationships with providers, while also identifying areas of noncompliance. They must work with the providers to help correct problems provide additional training or technical assistance when necessary. They must ensure that providers operate according to Program rules and regulations, and that accurate records are available to justify reimbursement for properly served, nutritious meals.

Each sponsoring organization must provide adequate supervisory and operational personnel for the effective management and monitoring of the program at all providers it sponsors. Sponsoring organizations must document that, to perform monitoring, it will employ the equivalent of one full-time staff person, also known as full-time equivalent (FTE), for each 50 to 150 day care homes it sponsors. It is the ADE's responsibility to determine the appropriate level of staffing for monitoring for each sponsoring organization. Monitoring duties include the employee's time spent on scheduling, travel time, review time, follow-up activity (i.e. household contacts), and report writing.

Sponsoring organizations must review each provider three times each year. In addition:

- At least two of the three reviews must be unannounced;
- At least one unannounced review must include observation of a meal service;
- At least one review must be made during each new provider's first four weeks (28 days) of Program operations. The first review requirement also applies to a provider that changes sponsors or to a provider that re-enters CACFP after a break in participation;
- Not more than six months may elapse between reviews; and
- If a sponsor finds a provider has conducted one or more serious deficiencies, the next visit must be unannounced.

Unannounced reviews are an effective tool in ensuring Program integrity. This tool gives sponsors the opportunity to document how the provider operates on any given day and also affords monitors the opportunity to provide on-site technical assistance to immediately address any identified issues. In addition, unannounced reviews offer a sponsor a first-hand opportunity to detect and identify areas of mismanagement, such as inaccurate meal counts, problems with recordkeeping, menu, and enrollment discrepancies. Sponsors can initiate immediate corrective action when these errors are uncovered.

However, unannounced reviews that follow a consistent, predictable pattern (e.g., unannounced reviews that always occur during January, May, and September, or reviews that never occur during the first week of the month when claims are being processed) undermine the intent of the Program's unannounced review requirements. Sponsors are less likely to uncover management deficiencies and Program abuse if providers can anticipate when their "unannounced" sponsor review is due to occur. Therefore, sponsors must ensure that the timing of unannounced reviews is varied in a way that would make certain they are unpredictable to the provider.

Sponsors must ensure reviews do not have a predictable pattern of type of meals observed. For example, a monitor does not review breakfasts and suppers because the monitor has approved working hours of 9:00 AM to 5:00 PM, or the monitor has outside employment and can only

conduct monitoring visits during morning hours. Sponsors that have limitations to the extent to which they can meet Program oversight requirements should not accept providers that exceed their management capabilities.

Unannounced reviews must be made only during the provider's normal hours of operation, and monitors making such reviews must show photo identification that demonstrates that they are employees of the sponsoring organization, the ADE, the USDA, or other State and Federal agencies authorized to audit or investigate Program operations.

If a sponsoring organization conducts one unannounced review of a provider in a year and finds no serious deficiencies, the sponsoring organization may choose not to conduct a third review of the provider that year, and may make its second review announced, provided that the sponsoring organization conducts an average of three reviews of all of its providers that year, and that it conducts an average of two unannounced reviews of all of its providers that year. When the sponsoring organization uses this averaging option, and a specific provider receives two reviews in one review year, its first review in the next review year must occur no more than nine months after the previous review. Sponsors must have a tracking system in place to ensure review averaging is used in accordance with the regulatory requirements.

Sponsoring organizations that discover conduct or conditions that pose an imminent threat to the health or safety of participating children or the public in a provider's home, must immediately suspend the provider's participation and follow the procedures outlined in Chapter 12, section 12.3.

Reviews must assess whether the facility has corrected problems noted on the previous review(s), a reconciliation of the facility's meal counts with enrollment and attendance records for a five-day period, and an assessment of the facility's compliance with the Program requirements pertaining to:

- Past performance – any previous findings from previous visits must be noted on the monitoring form so the monitor can determine whether or not those problems have been corrected. This should be done prior to the visit so the monitor can adequately review the providers file and records to look for any inconsistencies or patterns. It will help the monitor fully assess the correction of a problem during a visit.
- § Meal Observation - When observing a meal service, monitors must ensure:
  1. The meal is being served within the approved meal time. The only exception is for infants, which are fed on demand.
    - a. Meals observed outside of a provider's approved meal time must be disallowed and will not count towards the one unannounced review that must include a meal observation.
    - b. Monitors must observe a variety of meal types, including on holidays, weekends, and evenings. Meals observed do not have to be exactly proportional to the percentage of meals claimed, but should be roughly proportional to the percentage of each type of meal being claimed by its providers overall.
    - c. If a reviewer attempts a review during an approved meal service and the provider is not home and did not provide advanced notice to someone at the sponsoring organization, the meal that would have been observed must be disallowed.

2. Observe the majority of the meal service;
  3. Ensure all children and the provider have washed their hands prior to the meal service;
  4. The meal served meets the required meal pattern (including milk type, components, and portion sizes) and matches the menu. If substitutions are made, they must be documented on the menu. Meals that do not meet the required meal pattern must be disallowed.
  5. All meal components are being served at once and in the proper portion sizes;
  6. Meals are age appropriate;
  7. Medical statements are on file for children with food allergies, intolerance, special dietary needs, or disability;
  8. Child Nutrition (CN Labels) are available or ensure the product served matches the label on file, if applicable; and
  9. If a meal is not being observed, the monitor should note the meal items the provider indicates were served. Monitors may ask for food packaging or other evidence that validates the food items served.
- § Monitors must verify that the provider's license, certification, or approval is current and has not lapsed. If there are any gaps, those meals must be disallowed. Monitors must also ensure that the provider is not over ratio based on his or her approval status. If the provider is over ratio at any one time (including during a visit or during the claim review process), the following must be followed:
1. First occurrence: Disallow all the meals in excess of the ratio, assign corrective action, and notify the licensing and/or certifying authority when applicable.
  2. Second occurrence: Same as first occurrence and deem provider seriously deficient.
  3. Third occurrence: Same as the second occurrence and propose to terminate and disqualify the provider.
- § Reviewers must ensure meal counts are up to date as of the previous day. Meal counts must be completed no later than the end of the business day each day. Reviewers may require a provider to conduct point of service meal counts as a corrective action if the provider is seriously deficient in this area. Meal counts may never be done in advance of a meal service.
- § The provider's menus must be available for all parents to see if requested and must be complete and up-to-date as of the day of the review. Reviewers must review the provider's menus to ensure they are correctly dated, all the meal components are being served (provider's should be specific about each component), that substitutions are being documented, and that no more than two high sugar and/or two high fat items are being served in a week. High sugar and high fat items will be counted on a menu (breakfast, snack, lunch, etc.) basis and not a per child basis. Infant meal records should be separate from menus for children one year and up.
- § Enrollment forms must be reviewed for completeness and ensure they were completed within the last 12 months. Providers must have an enrollment form for every child that is present at the time of monitoring visit, for any child that is in attendance during the provider's business hours, and for any child whose meals are claimed for reimbursement.

This includes the provider's own children. An enrollment form must be complete and on file before any child care is provided and must be updated annually. If there are any gaps in enrollment, meals during the gap period are not reimbursable.

- § All providers are required to have parents sign in and sign out their children. Monitors will review to ensure providers are not only using sign in/out sheets but they are current as of the time of the monitoring visit. Providers may sign a child into care for parent if the provider picks a child up from school. A provider may sign a child out of care when the provider drops a child off at school. Sign in/out sheets can be used to determine when children are normally in care.
- A provider's home should be clean, free of insects and rodents and provide a safe environment. This would include ensuring utensils, counters, appliances, and eating area are clean, cleaning supplies and kitchen knives or sharp objects are kept locked and out of reach of children, electrical outlets not being used should be capped and all garbage cans should have a lid on them. A working thermometer should be kept in both the refrigerator and freezer to ensure proper temperatures are maintained. Providers should use a food thermometer to check the internal temperature of all potentially hazardous foods prior to serving them to enrolled children.
- Reviewer must verify that the provider makes drinkable water available throughout the day, including at meal times, upon request.
- Reviewer must ensure medical statements are on file for any child with food allergies.
- Reviewers must confirm that the provider has either posted or distributed the Building for the Future flier and WIC information to the parents/guardians of all enrolled children. It is recommended that if providers choose to distribute this information, the provider should maintain some sort of documentation to confirm that parents/guardians have received the information.
- Reviewer must ensure that providers are including the non-discrimination statement on all materials or advertisements that are accessible to the public.
- Reviews must examine the meal counts recorded by the provider for five consecutive days during the current and/or prior claiming period. Monitors can review earlier months if necessary, such as if the provider was closed for extended medical or vacation time or if the monitor is trying to establish a pattern. The five days must be consecutive and they must be days the provider actually operated. If the provider is open on holidays and weekends, those days should be counted in the reconciliation. If the provider was closed for unexpected reasons such as illness or weather, that day should not be included in the reconciliation.

For each day examined, reviewers must use enrollment and attendance records to determine the number of participants in care during each meal service and attempt to reconcile those numbers to the numbers of breakfasts, lunches, suppers, and/or snacks recorded in the provider's meal count for that day. Based on that comparison, reviewers must determine whether the meal counts were accurate. If there is a discrepancy between the number of participants enrolled or in attendance on the day of review and prior meal counting patterns, the reviewer must attempt to reconcile the difference and determine whether the establishment of an over-claim is necessary. Monitors should also question unusual patterns and/or significant difference between the attendance on the day of the review and past meal counts. For example, in conducting the five day reconciliation, the monitor finds that the provider consistently claims six children, but on the day of the visit, only four children are in attendance. This is the second occurrence.

This is a red flag and the monitor should determine if there is a valid reason for the difference and conduct household contacts.

- Reviewers should confirm whether or not the provider has attended the required training within the last year. This information could be checked prior to the visit.

For items marked with a \$; if the provider does not have complete and correct records up to and including the day of the visit, meals must be disallowed. There are no grace periods, including new providers. Program requirements must be complied with, including meal pattern requirements, as soon as they start participating in the Program.

If a provider is not in compliance with the Program rules, it must be documented as a finding and the provider must take immediate corrective action to correct the identified problem. The corrective action taken must be clearly documented and meet the requirements in Chapter 12, section 12.1.

Follow-up reviews should be conducted to make sure that problems found during a previous review have been permanently corrected. Most follow-ups should occur within a month to make sure serious deficiencies have been corrected and some deficiencies may require more than one visit. If the follow-up review is a result of a serious deficiency, it must be unannounced.

Monitors must leave a copy of the completed monitoring visit form with the provider for the provider's files to make sure that both the provider and the monitor have the same record of what occurred during the visit. The form must:

- Document that the above items were reviewed for compliance;
- Identify any findings and serious deficiencies and its corrective action;
- Verify that problems on previous reviews have been permanently corrected; and
- Be fully complete. Missing information such as whether or not a meal was observed, dates and times of the monitoring visit, what type of review was conducted, or signatures will be considered incomplete and will not count towards meeting the regulatory requirements.

## 5.4 Training Requirements

Each sponsor must thoroughly train its providers on all Program duties and responsibilities before the CACFP provider becomes operational. Additionally, sponsors must provide training to each provider at least once each fiscal year.

Trainings should be detailed and may be provided through scheduled group workshops or as a one on one training in the providers home or at an agreed upon location. If training is done in the provider's home, it may not occur in conjunction with a monitoring visit or while children are in care, except for the provider's own. Training must be documented in each provider's file. Documentation must include a sign in roster that includes the location and date of the training, an agenda that clearly lists all topics covered, and the materials used to conduct the training. Training documentation must be made available upon request during an administrative review.

This training must stress eligibility, food service, and recordkeeping requirements. At a minimum, such training shall include topics such as:

- Meal pattern requirements (i.e. child and infant meal patterns, reimbursable meal components, creditable and non-creditable foods, portion sizes, high fats/high sugars, meal service times, CN label requirements);
- Meal count documentation (i.e. allowable meal types to claim, meal counts must be recorded by the end of each day and may NOT be determined by attendance, attendance records are separate from meal counts and must be completed by the parent/guardian as the child arrives or leaves each day, meal counts should support monthly reimbursement claims);
- Claims submission (i.e. compare menus to meal pattern, claims process);
- Recordkeeping requirements (i.e. enrollment forms, required monthly forms [i.e. meal counts, menus and sign in/out sheets], medical statements for allergies to support substitutions to menus, infant records [i.e. infant meal counts], sponsor/provider permanent agreement, licensing, certifications, standards, inspection reports, provider applications, monitoring forms);
- Civil rights (i.e. program availability, complaint procedures, use of non-discrimination statement); and
- Reimbursement system (i.e. monthly claim due dates, monthly claim edit checks, claim preparation, record retention, how to calculate reimbursement).

Additional topics to consider are:

- Monitoring visits (i.e. purpose and frequency of sponsor reviews, follow-ups, inspections (if applicable), purpose and frequency of State or Federal reviews)
- Food safety and sanitation (i.e. proper food temperatures, food storage requirements, hand washing, food handling and cross-contamination, handling food waste)
- Serious deficiency process (i.e. red flags and what constitutes a seriously deficient determination, steps in serious deficiency process, how to properly respond to corrective action, appeal rights and process)

- Nutrition education (i.e. dietary guidelines, benefits of variety in menus, recipe ideas, available resources)
- Physical activity (i.e. importance of physical activity, reducing screen time, games or ideas for children)

Each staff member of the sponsoring organization that has monitoring duties (as described in section 5.4) must receive training prior to starting monitoring duties and on an annual basis thereafter. Training must include instruction, appropriate to the level of staff experience and duties, on the Program's meal patterns, meal counts, claims submission and claim review procedures, recordkeeping requirements, and an explanation of the Program's reimbursement system and adherence with civil rights requirements. Additional topics to consider might include how to schedule, conduct, and follow-up on monitoring visits, an overview of the serious deficiency and appeals process, how to assign and evaluate corrective action, health and food safety requirements, and menu planning. Training documentation must include a sign in roster that includes the location and date of the training, an agenda that clearly lists all topics covered, and the materials used to conduct the training.

## 5.5 Household Contacts

A household contact is one of many tools available to sponsors when it becomes necessary to question an onsite monitoring review or a review of a claim. Household contacts should be used in conjunction with corrective action procedures when appropriate. Single instances of unsuccessful household contacts should not automatically result in declaring a provider seriously deficient. The sponsor should look for red flags that are evident during reviews of the home, claims, and/or file. Some examples of red flags are:

- Submission of false information;
- Failure to maintain adequate records;
- Claiming meals over capacity;
- Claiming meals on holidays or weekends that are not approved or seem unusual;
- Claiming supper meals that are not approved or seem unusual;
- Parent or public complaints;
- Health or safety, ratio, or recordkeeping findings noted in licensing or certification reports;
- Provider is seriously deficient;
- Review findings by the sponsor and/or the ADE;
- Provider is consistently unavailable for monitoring visits;
- Provider not home for attempted visit, but child(ren) were claimed for that meal;
- Child(ren) being claimed by more than one provider;
- Provider consistently submits block claims or claims its maximum capacity;
- Provider claims the same number of meals for a specific meal service every day of the month they are open for business with no absences.
- Provider's number of enrolled children exceeds its maximum capacity and the provider doesn't offer shift care;
- Meal count records exceed documented enrollment and/or attendance records on any given occasion;
- Children observed at visit did not match those on the claim and/or attendance record;
- Provider consistently claims shift meals. Monitor's attempt to observe the shift meal, at the scheduled mealtime, has been consistently unsuccessful or does not match the historical number of meals being claim for that shift;
- The in/out times on the attendance records do not match meals being claimed by provider;
- Meal attempted to be observed by monitor was not being served on the day of the monitoring visit but is historically consistently claimed by provider;
- Provider claiming child(ren) when it has previously reported the child(ren) dropped from child care; or

- Parent signatures on enrollments are not valid;
- Foods observed at a visit did not match the foods on the claim.

Household contacts can be done via phone or in writing. When conducting surveys by phone, sponsors should ensure translators are available to assist with the survey and clearly identify who is speaking and the purpose of the call. A list of households/parents that need to be contacted should be compiled and divided among sponsor staff so that the phone surveys can be done in unison. The phone survey must be documented and include the date and time the survey was conducted as well as the interviewers signature certifying all information is true and correct. If parents choose not to participate in the survey, they must be notified that benefits to their child(ren) will continue.

When conducting surveys via mail, a self-addressed stamped envelope to the sponsoring organization should be provided. The survey must be on sponsor letterhead and include instructions on how and when to return the written survey. Parents should be given 14 days from the date of receipt to return the survey. Surveys do not need to be sent via certified mail and are considered received after 5 days of mailing. If parents choose not to participate in the survey, they must be notified that benefits to their child(ren) will continue.

Sponsors must develop a survey that will be used to conduct household contacts. They should be applied consistently and be approved by the ADE. Once the surveys are complete or received, the sponsoring organization must take action based on the results of the surveys. Actions to be taken will vary, depending on what triggered the household contact. Actions to be taken may include, but are not limited to:

- If the survey results determine children were claimed that were not in attendance, or there are discrepancies noted in the data reported by the provider, the provider should be deemed seriously deficient.
- If the survey results are unsuccessful, further follow-up may be necessary. This may require an onsite visit to the provider’s home during the times the children are listed in care on the enrollment forms.
- If the survey results indicate that claims submitted are legitimate, no further action is required.

### **Sample Survey**

Provider Name: \_\_\_\_\_  
 Parent/Guardian Name: \_\_\_\_\_  
 Relationship to Child: \_\_\_\_\_

My name is <insert sponsor staff name>. I represent <insert name of sponsoring organization>. Your child care provider, <insert name of provider> participates in, and receives reimbursement from the Child and Adult Care Food Program (CACFP) for the meals served to your child(ren). In order to ensure the integrity of the program, we occasionally conduct surveys with the parents to verify their child’s(ren’s) attendance in the child care provider’s home. Participation in this survey will assist us in maintaining the integrity of the CACFP. Following are a few questions to verify your child’s(ren’s) participation in the CACFP. If you decide not to participate in this survey, benefits to your child(ren) will continue.

1. Are you aware that your child care provider participates in the U.S. Department of Agriculture Child Nutrition Program? Circle one: Yes No
2. Did you fill out and sign an enrollment form for your child(ren) to enroll on the CACFP with the child care provider noted above? Circle one: Yes No
3. Do you pay (private pay or DES Child Care Subsidy, with or without co-payment) for your child(ren)'s care at the child care provider noted above? Circle one: Yes No
4. Is/are the child(ren) still in care at the child care provider's home noted above? Circle one: Yes No
5. If yes, how many days in the month(s) of <insert month(s) in question> was/were your child(ren) in attendance? \_\_\_\_\_
6. If no longer in care, what was the last day in care? \_\_\_\_\_
7. Name(s) and age(s) of child(ren) in care: \_\_\_\_\_
8. Is/are child(ren) related to child care provider? Circle one: Yes No
9. If yes, what is the relationship? \_\_\_\_\_
10. What is the normal school schedule for the child(ren)? \_\_\_\_\_
11. Was/were your child(ren) in attendance during the month(s) of <insert month(s) in question>? Circle one: Yes No
12. Were there any days your child(ren) was/were not in care due to illness, vacation, appointments, etc. during the month(s) of <insert month(s) in question>? Circle one: Yes No
13. If yes, describe. \_\_\_\_\_
14. Is/are your child(ren) in care on weekends? Circle one: Yes No
15. If yes, was/were your child(ren) in care during weekends for the month(s) of <insert month(s) in question>? Circle one: Yes No
16. Is/are your child(ren) in care on holidays? Circle one: Yes No
17. If yes, was/were your child(ren) in care during the holiday(s) of: <insert holiday(s) in question>? Circle one: Yes No
18. What hours is/are your child(ren) normally in care? \_\_\_\_\_
19. What meal(s) does the child care provider usually serve to your child(ren)? \_\_\_\_\_
20. Do you provide either food or money for any meals while your child(ren) is/are in child care? Circle one: Yes No
21. In general, do you feel your child(ren) benefit(s) from the CACFP? Circle one : Yes No

Additional Comments: \_\_\_\_\_

Thank you for your cooperation. If you have any questions please feel free to call <insert sponsor name > at <insert sponsor telephone number>.

## 5.6 Sponsor & Provider Payments

Advance payments are available for participating sponsoring organizations. The advanced payments provide the institution with financial assistance for its Program costs prior to the month in which such costs are incurred. Sponsoring organizations may decline all or part of their advanced payments. The ADE must fully recover all advanced payments by the end of each fiscal year. Advanced payments are recovered from future claims of reimbursement. Advance payments are determined by the amount of administrative payments issued in the same month of the previous year. At the beginning of the last week of each month, the ADE Finance and Operations team determines the amount of advanced payments to be issued and sends the request to accounting for processing and payment by the first of each month. The only exception is the month of October. Advance payments for the month of October are contingent on when the ADE receives funding from the USDA and whether or not the sponsoring organization has an approved application for the applicable fiscal year. Once the funds are received, advance payments will be processed for sponsoring organizations with an approved application that have requested advance payments.

During the months of October through July, if the ADE has recovered 90% or more of the sponsor's current advanced payments, the sponsoring organization will be advanced 100% of their administrative payments from the same month of the previous year. Sponsors with 80-89% of their advances recovered will receive 70% of their administrative payment for the same month of the previous year and sponsors with 60-79% recovered will receive 50% of the administrative payment from the same month of the previous year. Sponsors will not receive an advance if the ADE has recovered 59% or less of their current advanced payments. For example, if a sponsor received a \$13,000 administrative payment in February of 2014, they will receive \$13,000 in advanced payments for February 2015 if the ADE has recovered 90% or more of their current advanced payments. If the ADE has only recovered 80-89% of the advanced payments, the sponsor will receive \$9,100 in advanced payments. If the ADE has only recovered 60-79% of the advanced payments, the sponsor will receive \$6,500 in advanced payments.

For the months of August and September, if the ADE has recovered 90% or more of the sponsor's current advanced payments, the sponsoring organization will be advanced 50% of their administrative payments from the same month of the previous year. Sponsors with 80-89% of their advances recovered will receive 35% of their administrative payment for the same month of the previous year and sponsors with 60-79% recovered will receive 25% of the administrative payment from the same month of the previous year. These two months are different so that the ADE is able to collect all of the advanced payments by the end of the program's fiscal year.

If the ADE has audit or monitoring evidence of extensive program deficiencies or other reasons to believe that a sponsoring organization will not be able to submit a valid claim for reimbursement, advance payments will be withheld until the claim is received or the deficiencies are corrected. If, as a result of year end reconciliation, the ADE determines that reimbursement earned by a sponsoring organization during a fiscal year is less than the amount paid, including funds advanced to that institution, the ADE will request repayment of the outstanding balance or adjust subsequent payments.

Monthly claims for reimbursement may be submitted as early as the first day of the month for the preceding month. For example, January's claim for reimbursement may be submitted as early as February 1<sup>st</sup>. Federal regulations give the ADE 45 days from the receipt of claims to issue the reimbursement; however, the ADE will process and pay claims each day for claims

that are submitted by 9:00 a.m. the same day. The only exception is that claims will not be processed and paid during the last week of any month to allow the ADE to compile required reports. Unless otherwise approved by FNS, the claim for reimbursement for any month shall cover only Program operations for that month. If the first or last month of Program operations in any fiscal year contains 10 operating days or less, such month may be added to the claim for reimbursement for the appropriate adjacent month; however, claims for reimbursement may not combine operations occurring in two fiscal years (June and July).

A final claim for reimbursement must be submitted to the ADE no later than 60 days following the last day of the full month covered by the claim. Claims not submitted within 60 days will not be paid with Program funds unless FNS determines that an exception should be granted. The ADE must promptly take corrective action with respect to any claim for reimbursement as determined necessary through its claim review process. If a sponsor has missed the deadline for submitting a claim or needs an upward revision, the sponsor should call or email the administrative assistant of Health and Nutrition's Finance and Operations Department to determine if they are eligible. If eligible, the administrative assistant would send them the Request for Approval of a One Time Exception (OTE) form, a blank claim form along with instructions. The sponsor must fill out the forms and return to the administrative assistant who will ensure the forms are complete and acceptable. The administrative assistant will forward the request on for approval. Once approved, the claim will be revised and processed (assuming it is not for a closed year) during the next payment cycle. If a request is made for a closed year, the length of time to process depends on how fast USDA responds to ADE's request. The OTE form can also be found on our website at <http://www.azed.gov/health-nutrition/financial-information/>.

In taking such corrective action, the ADE may make upward adjustments in Program funds claimed on claims filed within the 60 day deadline if such adjustments are completed within 90 days of the last day of the claim month. Downward adjustments in claims must always be made regardless of when it is determined that such adjustments are necessary. Downward adjustments do not require FNS authorization.

Prior to submitting its consolidated monthly claim to the State agency, each sponsoring organization must perform edit checks on each provider's meal claim. At a minimum, the sponsoring organization's edit checks must:

1. Verify that each provider has been approved to serve the types of meals claimed; and
2. Compare the number of children enrolled for care at each home, multiplied by the number of days on which the provider is approved to serve meals, to the total number of meals claimed by the provider for that month. Discrepancies between the provider's meal claim and its enrollment must be subjected to more thorough review to determine if the claim is accurate.

Sponsoring organizations must issue reimbursement payments to providers within five working days from receipt from the ADE. Reimbursements are based on the number of meals served by each day care home provider to enrolled children. Sponsors cannot withhold any portion of a valid claim.

All records that support the claim must be retained for a period of five years after the date of submission of the final claim for the fiscal year to which they pertain. If audit findings have not been resolved, the records shall be retained beyond the end of the five year period as long as may be required for the resolution of the issues raised by the audit. All accounts and records pertaining to the Program must be made available, upon request, to representatives of the ADE

or its affiliates (DHS, DES, auditor, etc), the USDA, and the U.S. Government Accountability Office for audit or review, at a reasonable time and place.

## 5.7 Governing Boards

Governing boards are responsible for policy setting, fiscal guidance, and ongoing governance. All non-profit sponsoring organizations must have an independent governing board of directors. This means they must: (1) meet on a regular basis; (2) have the authority to hire and fire the institution's executive director (i.e. the board must be independent of the executive director's control); and (3) have the ability to provide adequate oversight of the Program. It must be composed of a majority of members of the community who are not financially interested in its activities, or related to its personnel or each other. Employees may not be voting members on the organization's board of directors when the vote relates to their own compensation. Governing board members who are family members of employees also may not be voting members for their relative's compensation because they lack the independence required of the board. All relationships to board members must be fully disclosed at the time of application and updated as necessary.

In order for the independent governing board or directors to provide adequate oversight of the Program, sponsors should provide training to each board member prior to participating on the Program and as often as needed thereafter. It is recommended that at least one board member attend trainings provided by the ADE to ensure they fully understand the Program's requirements and better administer their position in the CACFP.

Governing boards must meet on a regular basis to review the organization's policies and procedures, Program operations, fiscal records, performance of the executive director, and the organizational budget. It is recommended that meetings be held on a quarterly basis, or more often, as deemed necessary. All meetings should be documented with meeting minutes that include the date and time of the meeting, board members present, decisions made, and details of business discussed during the meeting. If voting occurs, the minutes should identify who participated in the vote and who abstained from it. Meeting minutes must be submitted to the ADE annually during the re-application process and must be made available to the public when requested.

### Sources

- 7 CFR 226.2
- 7 CFR 226.6(b)(vii)(C)(1)
- 7 CFR 226.6(m)(5)
- 7 CFR 226.10
- 7 CFR 226.15
- 7 CFR 226.16
- Arizona Revised Statutes, Title 39
- USDA's Family Day Care Homes Monitor Handbook
- USDA's Monitoring Handbook for State Agencies
- CN# 013-10
- CN# 015-10
- CACFP 01-2015

**CHAPTER 6**

**NEW PROVIDER ELIGIBILITY  
REQUIREMENTS**

## 6.1 Provider Eligibility Requirements

Eligible family day care homes that provide organized, non-residential child care can qualify for participation in the Child and Adult Care Food Program (CACFP). The five types of non-residential family day care homes eligible for participation on CACFP are Department of Economic Security (DES), Department of Health Services (DHS), Alternately Approved (AA), Indian Tribe/Reservation, and Military.

- **DES Home**

DES family child care homes are certified and monitored by DES. Providers who care for four or fewer children for compensation at one time and wish to receive Title XX funds (Child Care Assistance Program) for any child in care must be certified. Within this group of certified providers, child care must take place in the home where the provider resides. The capacity set by DES must be followed. For more information regarding certification through DES, please call 602-542-4248.

- **DHS Home**

Family child care group homes are licensed and monitored by the Arizona Department of Health Services (DHS). Providers who care for more than 4 children for compensation must be licensed or certified by the Arizona Department of Health Services (DHS). DHS homes can care for up to 10 children **for compensation**, but no more than 15 children total at one time, including the provider's own or other caregiver's children. The capacity set by DHS must be followed. Note: If a provider receives CACFP reimbursement for a child's meal and/or snack, it is considered compensation according to the Arizona DHS, Office of Child Care Licensure's definition of compensation in section R9-3-101 of its Arizona Administrative Rules. For more information regarding licensure through DHS, please call 602-364-2539.

- **Alternately Approved (AA) Homes**

Providers caring for four or fewer children for compensation at one time and are not licensed by DHS or certified as a DES provider may participate as an AA provider. Participation requirements are determined by the State agency in order to comply with federal regulations. At a minimum, AA providers must:

1. Be 18 years of age;
2. Have a residential address (P.O. box information may be included for mailing purposes). Note: Those that live in rural areas that do not have a residential address (i.e. home located on a reservation) may provide detailed, written directions to the physical location of the home.
3. The provider must live in the home where care is provided;
4. Receive a satisfactory health/sanitation inspection report from the local health department or its officially designated representative on an annual basis;
5. Receive a satisfactory fire/safety inspection from the local fire department or its officially designated representative on an annual basis;
6. Have a current and valid fingerprint card or have submitted an application for one;

7. Adhere to the child care standards as set forth by federal regulations and the ADE;
8. Not be listed on the National Disqualified List (NDL); and
9. Not have received a certification or license revocation from DES or DHS for health and safety violations.

- **Military and Indian Tribes Providers**

Providers that are licensed or approved by federally recognized Indian tribes or military bases may submit and the department shall accept certifications or licenses issued by the appropriate agency.

## 6.2 Provider Participation

Individuals requesting to become day care home providers will be instructed to contact a day care home sponsor of their choice for guidance. These individuals will be directed to the ADE's website (<http://www.azed.gov/health-nutrition/cacfp/family-daycare/office-location/>) for a list of day care home sponsors from which they can choose. If they do not have internet access, a copy of the webpage will be printed and sent via mail. It is the sponsor's responsibility to keep the ADE up-to-date with any changes to the contact information provided on the website. While the ADE encourages potential providers to contact multiple sponsoring organizations, a provider may only participate on the Program under **one** sponsoring organization.

Sponsoring organizations must check the National Disqualified List (NDL) to verify that the provider, and when applicable, the backup provider, has not been previously disqualified from participating on the Program. Once that has been confirmed, the sponsoring organization will enter into a written agreement with the provider. The agreement will outline the rights and responsibilities of both parties. This agreement will be developed by the sponsoring agency and must be approved by the ADE. Licensed or license-exempt providers must contact one of the sponsoring organizations to participate in the CACFP and sign an agreement with the sponsor of choice.

Sponsoring organizations must conduct an onsite pre-approval visit for each new provider. The visit should be utilized to:

- Determine eligibility of the provider;
- Inform the new provider about CACFP requirements, benefits and sponsoring organization's policies;
- Explain the sponsoring organization's application process and go over the provider application;
- Discuss the sponsor/provider agreement, including the rights and responsibilities of the provider and the rights and responsibilities of the sponsoring organization;
- Ensure the provider understands food safety and how to handle foods in a safe manner to prevent food borne illness;
- Review the potential providers' meal service to ensure the provider is capable of preparing meals that meet Program requirements;
- Explain the recordkeeping requirements of the Program and ensure the provider is capable of meeting these requirements;
- Inform the provider of Tier I determination and/or Tier II reimbursement options; and
- For alternately approved homes, follow-up on any findings noted on the fire or health inspection report(s) and ensure the issues have been corrected (i.e. missing hose bib, no paper towels in the hand washing areas, etc).

Upon a pre-approval visit being conducted, the sponsor must document the visit was completed and include the signature and date of both the sponsoring organization and provider. The sponsor may wish to give the provider a copy of the sponsor's appeal policy.

### 6.3 Provider's Own

All residential children living in the provider's household who are part of the economic unit of that household are considered provider's own. A provider does not need to be the parent or legal guardian of residential children for those children to be considered "provider's own." The children are considered the provider's own when:

- The child(ren) live in the residence where care is provided, and
- The child(ren) is part of the provider's household or economic unit.

At least one non-residential child must be enrolled and receiving care by the provider in order for the provider to qualify as a family child care home for CACFP eligibility purposes. Payment may be made for meals served to the provider's own children only when:

- Such children are enrolled and participating in the child care program during the time of the meal service,
- Enrolled nonresident children are present and participating in the child care program, and
- The provider is eligible for Tier I reimbursement and providers' children are eligible to receive free or reduced-price meals.

**6.4 Temporary Emergency Residential Care Situations**

A day care home participating on the CACFP cannot provide child care to the same child(ren) for more than 24 hours on a regular basis. Situations may occur when a child(ren) may need to stay with the provider for more than 24 hours due to an emergency or unplanned event. This is considered a temporary emergency residential care situation. When an temporary emergency residential care situation occurs, the child(ren) may continue to be considered nonresidential for the CACFP. Reimbursement may be claimed in these situations for up to three consecutive calendar days or 72 hours only. Examples of temporary emergency residential care situations might be a parent or guardian is involved in an accident and becomes incapacitated, weather disasters, or medical emergencies.

The intent of the CACFP is to serve only nonresidential children with the exception of the provider's own children. Children who require care for 24 hours or longer are not eligible to participate on the CACFP. Examples of this situation might be fireman who are on duty for more than a day straight, military personnel who are sent out of town for a period of time, or a parent is undergoing a planned medical procedure. These are planned events and are not considered a temporary emergency residential care situation.

**6.5 Foster Homes**

When a DES certified Foster Care home wishes to become a DES certified child care home, the applicant must become certified through DES Child Care Administration. A DES Foster Care certificate cannot be accepted in lieu of a DES Child Care Administration certificate. Foster children who are in care 24 hours a day may qualify for participation in CACFP. If the provider cares for unrelated children in addition to caring for the foster child, the following conditions must be met in order for the provider to receive CACFP reimbursement for the foster child:

- At least one non-residential child, enrolled and receiving care in the provider's home, must be in attendance and participating in the meal service.
- The foster child must be enrolled and participating in the family child care home.

Foster homes who choose not to become a DES certified child care home may participate as an AA home.

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**6.6 Division of Developmental Disabilities (DDD) Homes**

The DES, Division of Developmental Disabilities (DDD) certifies homes to provide respite care for developmentally disabled persons. Clients can range in age from infants through adults and may stay with a provider on a daily or long-term (24 hour) basis.

Providers who care for developmentally disabled clients are eligible to participate in the CACFP under the following conditions:

- The home must be serving a majority of clients 18 years of age and under (rationale: to establish that the home is operating as a family child care home).
- The home must apply as an alternately approved provider. The fire and health inspection completed by DES cannot be accepted in lieu of the fire and health inspections conducted by local authorities.
- Only non-residential children are eligible for the Program, unless the child meets the definition of provider's own. If care is provided on a long-term basis, the enrolled participants are considered residential and are therefore ineligible to participate. If the provider is licensed/certified as a residential facility, they are ineligible to participate on the Program.

Each district determines the number of disabled clients that may be cared for in a home. Usually the maximum is three. A provider should contact the DDD office in their area for approval to care for children without disabilities while caring for a disabled client.

**6.7 Non-Certified Relative Provider**

A non-certified relative care provider means a person who provides child care services to an eligible child, who is by affinity or consanguinity or by court decree the grandparent, great-grandparent, sibling not residing in the same household, aunt, great-aunt, uncle or great-uncle of the eligible child and who meets the DES requirements to be a noncertified relative provider. This agreement allows a person's child to be cared for by a relative. This agreement does not allow the relative provider to care for other unrelated children; however, the related child(ren) may receive CACFP benefits as long as they do not reside in the home where care is given. If the relative care provider wishes to participate on CACFP, the relative must become an AA home, following all applicable steps for approval.

**6.8 Household Ratios**

Day care home providers must maintain and adhere to the ratio standards that have been established by their respective regulatory agency. They are as follows:

Regulatory Agency	# of Children	# of Providers
<p>DHS - A provider may care for up to ten children for compensation, plus an additional five children for whom there is no compensation, for a maximum total of 15 children at a time. The provider's and caregiver's own children are included in the ratio.</p>	<ul style="list-style-type: none"> <li>➤ 1-5 for compensation, regardless of age</li> <li>➤ 6-10 for compensation, regardless of age</li> <li>➤ 11-15 not for compensation, regardless of age</li> <li>➤ Note: If a provider claims a meal served to a “not for compensation” child, the child will then be considered “for compensation” and included in the ratio.</li> </ul>	<p>1 2 3</p>
<p>DES or ADE – A provider may care for a maximum of six children at a time. No more than four can be for compensation.</p>	<ul style="list-style-type: none"> <li>➤ 1-4 for compensation, birth through age 12. Up to an additional two children not for compensation are allowed.</li> <li>➤ No more than two of the children are younger than age 1, unless a sibling group.</li> <li>➤ Note: If a provider claims a meal served to a “not for compensation” child, the child will then be considered “for compensation” and included in the ratio.</li> </ul>	<p>1</p>
<p>Military/Tribal</p>	<ul style="list-style-type: none"> <li>➤ Ratios are based on their respective regulatory agencies</li> </ul>	

## 6.9 Mandatory Training

Training is crucial to ensure the Program's integrity is maintained and the Program is operated in accordance with the Program's rules, regulations, and policies. Providers who are equipped with the proper knowledge, tools, and support will be able to implement Program rules and requirements successfully. Each sponsor must thoroughly train its providers on all Program duties and responsibilities before the CACFP provider becomes operational. Additionally, sponsors must provide training to each provider at least once each fiscal year.

This training must stress eligibility, food service, and recordkeeping requirements. At a minimum, such training shall include topics such as:

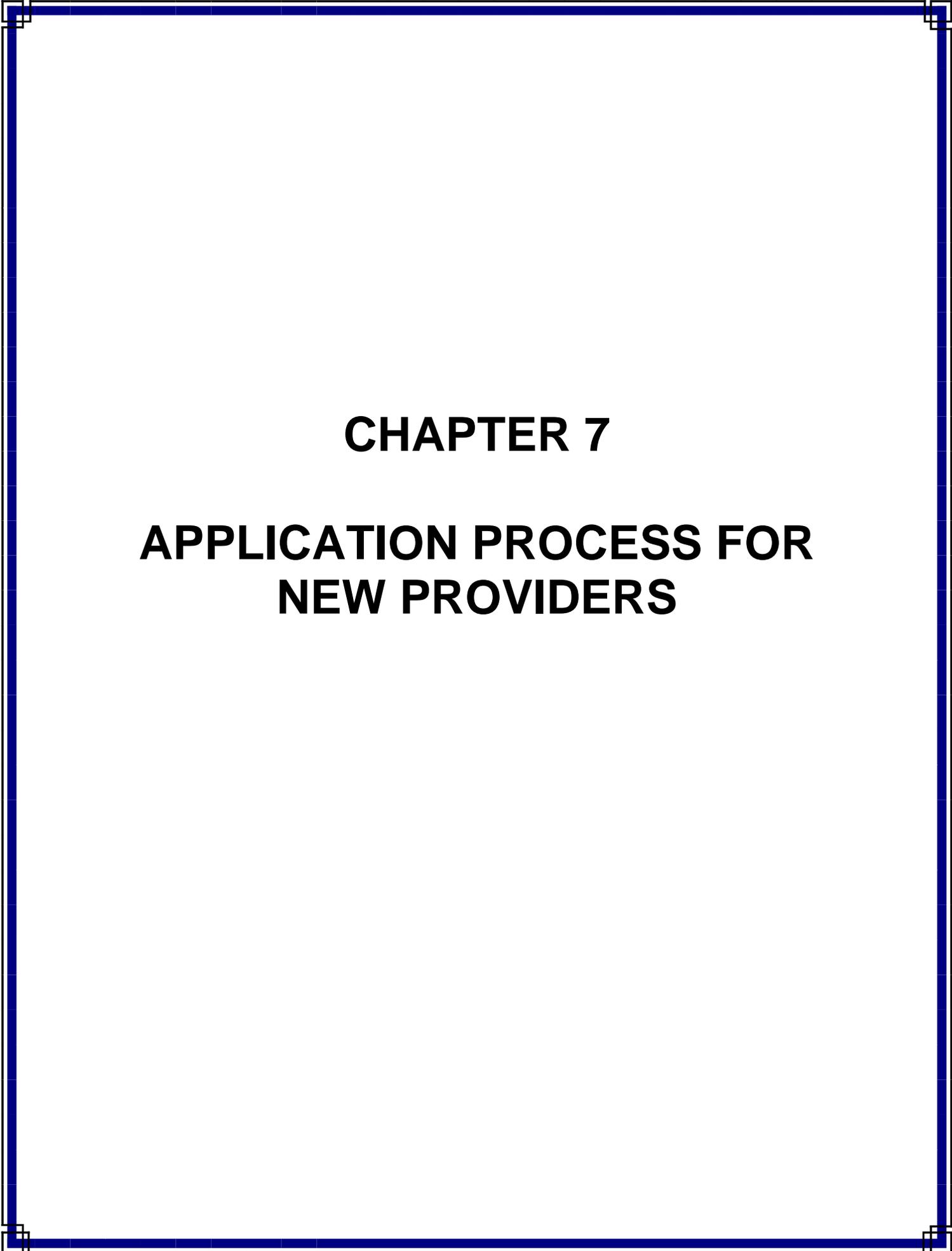
- Meal pattern requirements (i.e. child and infant meal patterns, reimbursable meal components, creditable and non-creditable foods, portion sizes, high fats/high sugars, meal service times, CN label requirements);
- Meal count documentation (i.e. allowable meal types to claim, meal counts must be recorded by the end of each day and may NOT be determined by attendance, attendance records are separate from meal counts and must be completed by the parent/guardian as the child arrives or leaves each day, meal counts should support monthly reimbursement claims);
- Claims submission (i.e. compare menus to meal pattern, claims process, due dates);
- Recordkeeping requirements (i.e. enrollment forms, required monthly forms [i.e. meal counts, menus and sign in/out sheets], medical statements for allergies to support substitutions to menus, infant records [i.e. infant meal counts], sponsor/provider permanent agreement, licensing, certifications, standards, inspection reports, provider applications, monitoring forms);
- Civil rights (i.e. program availability, complaint procedures, use of non-discrimination statement); and
- Reimbursement system (i.e. monthly claim submission dates, monthly claim edit checks, claim preparation, record retention, how to calculate reimbursement).

Additional topics to consider are:

- Monitoring visits (i.e. purpose and frequency of sponsor reviews, follow-ups, inspections (if applicable), purpose and frequency of State or Federal reviews)
- Food safety and sanitation (i.e. proper food temperatures, food storage requirements, hand washing, food handling and cross-contamination, handling food waste)
- Serious deficiency process (i.e. red flags and what constitutes a seriously deficient determination, steps in serious deficiency process, how to properly respond to corrective action, appeal rights and process)
- Nutrition education (i.e. dietary guidelines, benefits of variety in menus, recipe ideas, available resources)
- Physical activity (i.e. importance of physical activity, reducing screen time, games or ideas for children)

**Sources**

- <https://www.azdes.gov/main.aspx?menu=128&id=4918>
- <http://www.azdhs.gov/als/childcare/index.htm>
- 7 CFR 226.6(d)(3) and (4)
- 7 CFR 226.16(d)(1) and (3)
- 7 CFR 226.18



**CHAPTER 7**

**APPLICATION PROCESS FOR  
NEW PROVIDERS**

## 7.1 Application Packet

Once the initial training and a pre-approval visit have been completed, the provider will complete an application packet. New providers must complete and provide the sponsoring organization with the following:

### AA Homes

- Provider application
- Provider/sponsor agreement
- Child care standards
- Application for fingerprint card or copy of card if they already have one (required for provider and back-up provider(s)\*)
- Satisfactory health and fire inspections
- Meal benefit income application form – only required if; (1) tier I by income, (2) if tier I and claiming residential children, or (3) if sponsor is providing assistance to a new provider to meet licensing, registration, or alternate approval standards.
- Child enrollment forms
- Reimbursement option for tier II providers (if applicable)
- It is a best practice, not a requirement, for sponsors to maintain the following information in the provider's file to ensure compliance; (1) CPR/First Aid card, (2) water safety certificate (if applicable), and (3) driver's license and auto insurance (if applicable). Another option is to check and verify during home monitoring visits. This should be documented on monitoring forms.

### DES, DHS, Military or Tribal Homes

- Provider application
- Provider/sponsor agreement
- DES certificate, DHS license, Military license/certificate, or Tribal license/certificate
- Meal benefit income application form – only required if; (1) tier I by income, (2) if tier I and claiming residential children, or (3) if sponsor is providing assistance to a new provider to meet licensing, registration, or alternate approval standards.
- Child enrollment forms
- Fingerprint card (required for provider and back-up provider(s)\*)  
Exception: Military/Tribal Homes
- Reimbursement option for tier II providers (if applicable)

\* DES requires all certified providers to designate one or more back-up providers. The backup provider must be 1) 18 or older and satisfies the requirements for backup providers outlined in DES regulations, 2) a DHS licensed child care center, 3) a DHS licensed child care group home, or 4) a DES certified family child care home. The back-up provider must be listed on the provider application and a copy of their fingerprint card must be provided to the ADE if they are

on the Program. If the backup provider is a DHS licensed child care center, the name of the center (instead of individual), is sufficient.

If an alternately approved provider participating on the Program wishes to be a backup provider for another participating provider, the provider must submit a written plan that ensures all ratio requirements will continue to be met.

## 7.2 Approval

Before a provider can begin claiming, the sponsoring organization must submit the provider application to the ADE for review and final approval (regardless of type of home). The sponsor will submit the following documents:

	Alternately Approved	DES Approved	DHS Small Group Home	Military Home	Tribal Home
Provider Application	X	X	X	X	X
Pre-approval visit	X	X	X	X	X
Tiering Information/NDL	X	X	X	X	X
DES Certificate		X			
DHS License			X		
Finger Print Clearance	X	X	X		
Military License/Certificate				X	
Tribal License/Certificate					X
Health Inspection	X				X*
Fire Inspection	X				X*
Child Care Standards	X				X*

\*Necessary only when license or certificate is not available

The tiering information required for processing provider applications is the tier level and date of the determination. If a provider was determined to be tier 1 by school data, the sponsor must provide the name of the school used and the percentage of participants that qualify for free or reduced-price meals. The school used may be any public school (no private or charter schools) that is in the assigned attendance area of the provider. The percentage of participants that qualify for free or reduced-price meals can be obtained by reviewing the most recent free/reduced report at: <http://www.azed.gov/health-nutrition/frpercentages/>. If the report shows 50%, the sponsor should contact the ADE to determine the provider's eligibility.

The sponsoring organization must check the National Disqualified List (NDL) to ensure the applying provider, and where applicable, the backup provider(s), have not been disqualified from participating on the Program. If the sponsoring organization finds a provider or back-up provider on the list, it must deny the application.

Providers who switch from DES or DHS approval to alternately approved must go through the ADE approval process. The date the provider chooses to cancel its current licensure or certification and notifies the appropriate agency, the provider is no longer eligible to participate on CACFP until it has completed the approval process. If a provider's DES certificate or DHS license is revoked for health or safety violations, the provider may not apply as an alternately approved home. If the license or certificate is revoked for reasons other than for health or safety violations and the provider fails to notify the sponsoring organization and continues to submit claims, he/she may not apply as an alternately approved home (refer to Chapter 12 for information regarding the serious deficiency and suspension process).

When a provider moves to a new address, the provider must go through the ADE approval process. This includes updating and submitting all documents listed in Table 8.2, except the pre-approval form. If it is already on file, another one does not need to be submitted.

If the ADE finds that the provider is listed as active under another sponsoring organization and the ADE has not received a drop report, including the provider's name, from that sponsoring organization, the ADE will not process the application until that sponsoring organization formally drops the provider. If it has been less than 30 days, the transfer process must be followed.

Once ADE approves the application, the sponsor will receive notification that the provider is approved to participate. If ADE finds that the tiering was not determined correctly by the sponsor, the correct information will be included in the approval notification and the sponsor must update its records accordingly. ADE recommends that a copy of the notification be kept in the providers file. In the event the application is incomplete or incorrect, the sponsor will be notified of the errors or missing information that is needed for application approval.

All inspection documents (fire and health) must contain a legible name of the person conducting the inspection, along with an original or electronic signature of the inspector and date of the inspection. Inspections may only be conducted by the local authority or individual(s) designated by the local authority to conduct inspections on its behalf. Inspection reports must be submitted to ADE in its original format and shall not be altered in any way.

When findings or deficiencies are noted on a fire or health inspection report, these issues are considered a possible safety hazard and must be corrected prior to approval (see note below for exception). ADE does not have the authority to determine whether or not a finding or deficiency is minor or severe. Some findings may require a physical follow-up by the sponsor at the provider's home to ensure it is corrected. These would include, but are not limited to, debris or hazards found in the yard, dangling cords, animals on the premises that are not the provider's pets, etc. Photos are not acceptable. Other findings may be corrected by submitting the appropriate documentation, such as, vaccination reports for provider's pets, receipts for missing outlet covers, no paper towels in the bathrooms, missing hose bib(s), missing thermometers in fridge/freezer, pest problems, etc. The sponsor must verify these are fully corrected at the first visit within 28 days of approval.

Note: When Maricopa county health inspectors, Superior Inspection Resources of Arizona (SIR AZ), issue a deficiency or finding during a day care home health inspection, a follow-up assessment letter (FAL) is issued to the provider and must be completed and sent in to their sponsoring organization within 30 days from the date of the inspection. The ADE will temporarily approve a provider in these instances only. Once the FAL has been received, a copy must be submitted to ADE. If a provider fails to provide the FAL to its sponsor within the 30 days, the provider must be placed on hold until a follow-up visit can be conducted by the sponsoring organization. The purpose of the follow-up visit will be to verify that the deficiencies have been corrected. The sponsor must submit documentation from the follow-up visit to the ADE. Once received and approved, final approval will be issued. Sponsors are welcome to submit the FAL with the initial application if it has already been completed.

### 7.3 Provider Transfers

A provider who has voluntarily terminated its agreement with the sponsoring organization but plans to enroll with another sponsoring organization is considered a transfer. A provider who wishes to transfer from one sponsoring organization to another may do so no more than one time per fiscal year. If the provider has not completed the required CACFP related training within the fiscal year, the provider cannot transfer to another sponsoring organization until completing this requirement. Providers who are seriously deficient or involved in a formal termination process will not be allowed to transfer to another sponsoring organization.

Providers should be made aware there will be a lapse in participation when completing a transfer and the change of sponsorship is subject to approval by the state agency and is not guaranteed.

If a provider wishes to transfer from one sponsoring organization to another, the following procedures must be followed:

- The provider must notify their current sponsor in writing at least 30 calendar days prior to the termination date that they are terminating their agreement. The provider must indicate their intent to transfer.
- The provider must notify their new sponsor in writing of their desire to transfer and the requested date. The provider may not participate under the new sponsor until the next calendar month following the termination of their agreement with their previous sponsor. **This means the provider may not participate under two different sponsors during the same month.** They also cannot officially transfer until the previous sponsor has submitted a drop report to the ADE. Transfer requests should be made with this in mind.
- The current sponsor is required to issue a “letter of transfer” to the new sponsor within 15 calendar days of receiving the written request of the provider to transfer to the new sponsor. This letter should indicate whether or not the provider has attended training within the last year and whether or not the provider is seriously deficient.
- The current sponsor must also submit to the ADE a drop report within 15 calendar days indicating the date that the provider is terminating its contract.
- The new sponsor must submit an application to the ADE for approval (refer to section 7.2 of this chapter), including the applicable letters and requests regarding the transfer prior to participation. ADE will not process this request until the provider has been formally dropped by the previous sponsor. Transfers cannot be backdated. Sponsors are welcome to submit the application prior to the start of participation under their sponsorship to reduce delays in participation.

Note – If a provider requests a list of other sponsoring organizations for any reason (i.e. provider wants to transfer, sponsor no longer in business, etc.), the current sponsoring organization must either direct the provider to the ADE website (<http://www.azed.gov/health-nutrition/cacfp/family-daycare/office-location/>) or distribute a full list of currently participating sponsoring organizations and their contact information to the provider.

**Example**

A provider has decided that he/she doesn't feel that its current sponsor, Sponsor A, is the right fit for the provider. The provider elects to terminate its agreement with Sponsor A effective June 15<sup>th</sup> and wishes to transfer to Sponsor B. On May 15<sup>th</sup> the provider notifies Sponsor A in writing of its intent to terminate his/her agreement and request to transfer. The provider also notifies Sponsor B that he/she wishes to transfer and would like to start as soon as possible. By June 1<sup>st</sup>, Sponsor A sends a letter of transfer to Sponsor B certifying that the provider has received training within the last year and is not in a seriously deficient status. Sponsor A also submits a drop report to ADE to formally drop the provider from their Program, effective June 15<sup>th</sup>. Sponsor B notifies the provider that it may begin the approval process with the ADE, but will not be approved any sooner than July 1<sup>st</sup>.

**Sources**

- 7 CFR 226.6(d)
- 7 CFR 226.16(k)
- 7 CFR 226.18

## **CHAPTER 8**

# **APPLICATION PROCESS FOR RENEWING PROVIDERS**

## 8.1 Renewal Application

All providers must renew their CACFP participation continually. The provider application must be completed every two years or more often if any changes are needed (i.e. moved, name changes, days or hours of care, holiday care, meal times, etc.). When a provider updates an application, it must be submitted to the ADE within 30 days. If a provider changes his/her legal name, ADE must be notified immediately and the appropriate documentation must be submitted (i.e. marriage certificate, updated driver's license, etc). The following documents require annual updates:

### DHS Licensed Homes:

- Fingerprint card for primary and backup providers\* (if expired)
- Provider application (if changes are necessary)
- License (if expired)
- Meal benefit income application form – only required if; (1) tier I by income or (2) if tier I and claiming residential children.
- Child enrollment forms

### DES Certified Homes:

- Fingerprint card for primary and backup providers\* (if expired)
- Provider application (if changes are necessary)
- Certificate (if expired)
- Meal benefit income application form – only required if; (1) tier I by income or (2) if tier I and claiming residential children.
- Child enrollment forms

Note: If a DES provider updates the days or hours of care on their DES certificate, ADE must be notified immediately and a copy of the updated certificate and provider application must be submitted.

### Alternately Approved Homes:

- Fingerprint card for primary and backup providers\* (if expired)
- Provider application (if changes are necessary)
- Satisfactory fire inspection
- Satisfactory health inspection
- Child care standards
- Meal benefit income application form – only required if; (1) tier I by income or (2) if tier I and claiming residential children.
- Child enrollment forms
- It is a best practice, not a requirement, for sponsors to maintain the following information in the provider's file to ensure compliance; (1) CPR/First Aid card, (2) water safety

certificate (if applicable), and (3) driver's license and auto insurance (if applicable). Another option is to check and verify during home monitoring visits. This should be documented on monitoring forms.

\* DES requires all certified providers to designate one or more back-up providers. The backup provider must be 1) 18 or older and satisfies the requirements for backup providers outlined in DES regulations, 2) a DHS licensed child care center, 3) a DHS licensed child care group home, or 4) a DES certified family child care home. The back-up provider must be listed on the provider application and a copy of their fingerprint card must be provided to the ADE if they are on the Program. If the backup provider is a DHS licensed child care center, the name of the center (instead of individual), is sufficient.

If an alternately approved provider participating on the Program wishes to be a backup provider for another participating provider, the provider must submit a written plan that ensures all ratio requirements will continue to be met.

Fingerprint cards must be current at all times. There are no grace periods for expired fingerprint cards for AA Homes. The ADE recommends that providers submit their fingerprint renewal application to the Department of Public Safety (DPS) far enough in advance to ensure it is processed prior to the expiration of their current card. Providers should refer to the DPS website for questions regarding the processing of fingerprint cards (<http://www.azdps.gov/services/fingerprint/#6>).

Fire inspections, health inspections, and the child care standards must be completed every 12 months. For example, if the last inspections were completed on February 20<sup>th</sup> of a particular year, it must be re-inspected no later than February 20<sup>th</sup> of the following year. There are no grace periods.

Military/Tribal Homes:

- Provider application (if changes are necessary)
- License/certificate (if expired)
- Satisfactory fire and health inspection (if license or certificate is not available)
- Meal benefit income application form – only required if; (1) tier I by income or (2) if tier I and claiming residential children.
- Child enrollment forms

## 8.2 Renewal Materials to Submit to the ADE

Sponsoring organizations must continually update the provider files at the ADE when the providers' qualifying information expires or changes. The below chart describes the required information to be submitted to the ADE when it expires.

	Alternately Approved	DES Approved	DHS Small Group Home	Military Home	Tribal Home
Provider Application	X	X	X	X	X
Tiering Information/NDL (when applicable)	X	X	X	X	X
DES Certificate		X			
DHS License			X		
Finger Print Clearance	X	X	X		
Military License/Certificate				X	
Tribal License/Certificate					X
Health Inspection	X				X*
Fire Inspection	X				X*
Child Care Standards	X				X*

\*Necessary only when license or certificate is not available

The sponsoring organization must check the National Disqualified List (NDL) to ensure any new back-up provider(s) have not been disqualified from participating on the Program. If the sponsoring organization finds a back-up provider on the list, that back-up provider cannot be approved. The complete date of when the NDL was checked must be included with the application, when a new back-up provider is listed.

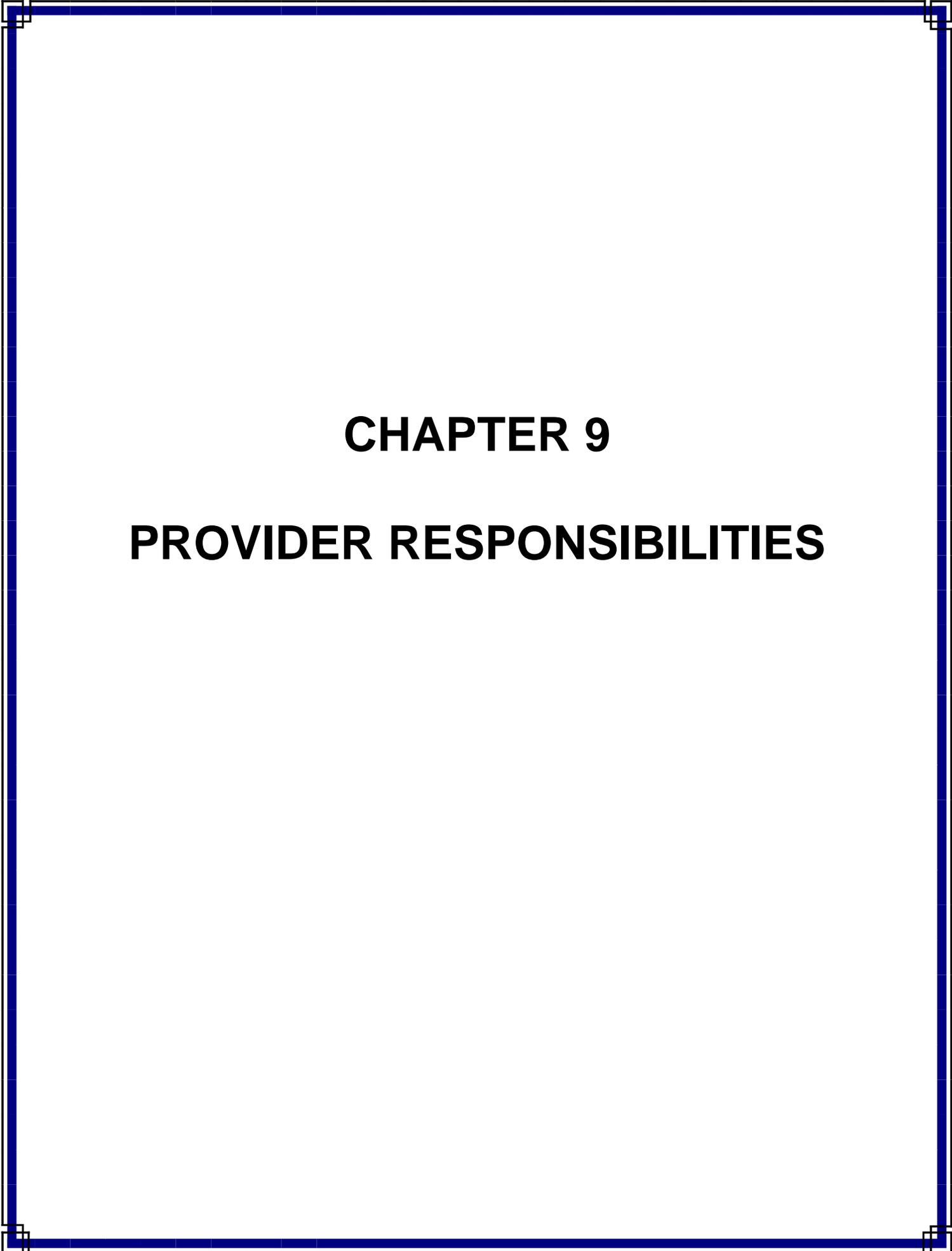
Sponsors may submit documents from DES or DHS supporting that the DES Certificate or DHS Small Group Home License is currently being renewed by the applicable agency in lieu of the actual certificate or license. However, a copy of the certificate or license must be forwarded to ADE upon receipt of it by the provider. Providers are ineligible to claim if there are any gaps between licenses or certificates.

If there are repeated findings noted on a fire and/or health inspection, further corrective action is required. For example, if a provider is missing a hose bib during an initial inspection and a follow-up inspection, a receipt by itself would not be sufficient. Further training by the sponsoring organization should be provided, a written corrective action plan signed by the provider should be submitted, and a physical follow-up from the sponsor to ensure it has been corrected will be required.

If ADE notices a gap between the expiration date of a fingerprint card, health inspection, fire inspection, child care standards, license, or certificate, and the issuance of a new one, the sponsoring organization may be requested to send proof that the provider was not reimbursed during the period of renewal. ADE recommends that sponsors and providers keep this in mind when scheduling inspections or updating documents.

**Sources**

- 7 CFR 226.6(d)
- 7 CFR 226.18



# **CHAPTER 9**

## **PROVIDER RESPONSIBILITIES**

## 9.1 General Requirements

Day care homes participating in the program must operate under the auspices of a public or private nonprofit sponsoring organization. Providers must enter into a written permanent agreement with a sponsoring organization which specifies the rights and responsibilities of both parties.

Day care homes must have current Federal, State or local licensing or approval to provide day care services to children. At the discretion of the sponsoring organization, day care homes which cannot obtain their license because they lack the funding to comply with licensing standards may request a total limit per home of \$300 in administrative funds from a sponsoring organization to assist them in obtaining their license. Day care homes that receive administrative funds for licensing-related expenses must complete documentation requested by their sponsor prior to receiving any funds. This includes, but is not limited to, a completed meal benefit income eligibility form which documents that the provider meets the Program's income standards, evidence of its application for licensing and official documentation of the defects that are impeding its licensing approval, and a completed CACFP application. The agreement must be signed by the sponsoring organization and the provider and must include the provider's full name, mailing address, and date of birth. These funding requests are limited to \$300 per home and are only available to each home once. If licensing or approval is not available, a day care home may participate in the Program if:

- It receives title XX funds for providing child care; or
- It demonstrates compliance with CACFP child care standards or applicable State or local child care standards to the State agency.

Each day care home must serve one or more of the following meal types: breakfast, lunch, supper, and snack. Reimbursement may not be claimed for more than two meals and one snack, or one meal and two snacks, provided daily to each child. Meals served to provider's own children are only reimbursable when at least one other non-residential child is in attendance. Meals served to school-aged kids are only reimbursable when school is not in session, when school lunch is not offered, or when appropriately documented (i.e. illness). Meals must be served within the approved meal times as listed in the most current provider application. Meals served outside of the approved meal times may be served, but cannot be reimbursed. Meal times may be updated at any time, but must be approved by the ADE prior to implementation.

It is the responsibility of the provider to offer, prepare, and serve meals which meet the meal pattern requirements. The provider must also maintain menus and records of the number of meals, by type, served to enrolled children to document compliance with these requirements. These records must be submitted to the sponsoring organization by the date set forth in the agreement between the provider and the sponsoring organization. Meals shall be served at no separate charge to enrolled children.

Day care home providers are responsible for promptly informing their sponsoring organization about any change in the number of children enrolled for care or in its licensing or approval status. Failure to inform sponsoring organizations about changes in licensing or approval status may result in a seriously deficient determination, especially if the provider continues to claim meals for reimbursement.

It is the right of the sponsoring organization, the ADE, the USDA, and other State and Federal officials to make announced or unannounced reviews of the day care home's operations and to have access to its meal service and records during normal hours of operation. It is the responsibility of the day care home providers to notify their sponsoring organization in advance whenever they are planning to be out of their home during the meal service period, including field trips. If an unannounced review is conducted when the children are not present in the day care home, and the provider does not notify its sponsoring organization in advance, claims for meals that would have been served during the unannounced review will be disallowed.

Providers are required to receive and participate in Program training prior to its participation in the Program, and at least annually thereafter.

Failure to meet any of the above may result in termination for cause and disqualification.

## 9.2 Provider Recordkeeping Requirements

Day care home providers are required to maintain records that fully support all reimbursement received and they must be readily accessible for review by the sponsoring organization, the ADE, the USDA, or any other Federal or State official. Program records shall be retained for five years after the date of submission of the final claim for the fiscal year to which they pertain. Furthermore, if review findings have not been resolved, the records shall be retained beyond the end of the five year period as long as may be required for the resolution of the issues raised by the review.

Providers must only maintain, and have on hand for immediate review, all records that support their program activities for the current month, as well as the previous 12 months of operation. Records should include documentation of attendance, enrollment, meal counts and menus. Providers may store the remaining four years of records offsite; however, they must still be in the control of the provider and accessible within a reasonable amount of time. If no offsite storage is used, providers must retain five years of records, onsite, at the day care home.

Records can be kept in hard copy or electronic format, provided that the records are readily available to reviewers. Sponsors and providers must be aware that failure to maintain such records shall be grounds for the denial of reimbursement.

The provider is required to maintain and have readily available the following documents:

- § Menus – must be completed no later than the end of the day for the following day. They must meet all meal pattern requirements, be properly supported by recipes and/or CN labels or Product Analysis Sheets, and include times meals were served. Infant meals must be recorded separately due to the different nutritional needs. In order to document compliance with the requirement meal pattern for infants, providers should document how much of each component was offered, not what the infant consumes.
- § Meal counts – must be completed daily, by the end of the business day. Must include the first and last names of enrolled children, their in and out times (which should match sign in/out sheets), and identify which meals are being claimed for reimbursement (not to exceed two meals and a snack or two snacks and a meal). Meal counts may never be done in advance of a meal service or be based on attendance. Meal counts may be required to be completed at the time of service for each meal and/or snack as a corrective action due to a serious deficiency.
- § Enrollment forms for all children who have been enrolled within the last year. Enrollment forms are required prior to participation and attendance in the daycare and CACFP and must be updated annually. They must be signed and dated by a parent or guardian (including electronic enrollment forms).
- § Sign in/ out sheets – must be completed by the parent or guardian as the children arrive and depart. They must be completed for each child and may not be combined with other family or household members. Sign in/out sheets are not required for provider's own children.
- Provider application(s)
- Sponsor/Provider Agreement, including addendums. It must be signed by both the sponsor and the provider.
- DHS License, DES certification, Military or Tribal certificate, or fire and health inspections and child care standards

- Copies of monitoring visit forms from sponsoring organization
- Medical statements for children with special dietary needs (if applicable)
- Current information regarding The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). This may be posted or provided to the parents or guardians of children upon enrollment. If the day care home elects to provide a copy to parents or guardians when a child enrolls, the provider should have the parent/guardian sign a statement that certifies they have received information regarding the WIC program.
- Building for the Future flyer that notifies parents of the provider's participation, the Program's benefits, the name and telephone number of the sponsoring organization, and the name and telephone number of the ADE. This may be posted or provided to the parents or guardians of children upon enrollment. If the day care home elects to provide a copy to parents or guardians when a child enrolls, the provider should have the parent/guardian sign a statement that certifies they have received a copy of the Building for the Future flyer.
- Any other record(s) required by licensing, certification, or approval.

Reviewers will review the above forms to ensure the forms are current, correct, and fully completed. Failure to successfully maintain the items marked with an (\$) cannot be reimbursed. These same records must also be submitted to the sponsoring organization by the due date indicated in the permanent agreement. Sign in/out sheets only need to be submitted monthly if the sponsoring organization has requested it. If there are errors or discrepancies in these records, the meals cannot be reimbursed and the sponsor must notify the provider, preferably in writing, why the meals were disallowed.

Providers choosing to use electronic software or applications to submit claims and other information to their sponsoring organization are highly encouraged to keep backup hard copies of all Program records in the event the electronic device, software, or application is not operational during a review. If electronic records are not available for any reason during a review and the provider has no other documentation available to support the reimbursable meals, those meals will be disallowed.

Failure to meet any of the above may result in termination for cause and disqualification.

### 9.3 Health & Safety Requirements

Providers must ensure that the health and safety of enrolled participants is a top priority.

Providers must, at a minimum:

- Maintain staff to child ratios and capacities set forth in Chapter 6 or by the applicable Federal, State, or local agency.
- Ensure there is no imminent threat to the health and safety of enrolled participants or the public.
- Ensure drinking water is available throughout the day, including at meal times, up on request.
- Ensure trash cans have a lid and that there is no evidence of insect or rodent infestation.
- Providers should ensure enrolled children properly wash their hands prior to any meal or snack.
- Ensure food is properly handled, prepared, labeled, dated, and stored. Expired food should never be served to enrolled children. Food removed from its original containers should be properly labeled, dated, and stored in containers appropriate for food storage. The refrigerator and freezer should both have a working thermometer and be maintained at the appropriate temperature. Food should be handled and prepared in a safe manner and cooked to proper temperatures. Providers must wash their hands prior to handling or serving any food and enrolled children must wash their hands prior to all meal services. Hand sanitizers should not be used in lieu of hand washing.
- Ensure cleaning supplies and toxic materials are stored out of the reach of children.
- Ensure smoke and carbon monoxide (if applicable) detectors are operational and fire extinguishers are serviced per the fire authorities recommendations.
- Maintain all other standards set forth by the licensing or certifying authority or as stated in the child care standards for alternately approved homes.

Failure to meet any of the above may result in termination for cause and disqualification.

#### 9.4 Provider's Rights

The rights of the day care home provider are as follows:

- Providers will receive the full food service rate for each meal served to enrolled children for which the sponsoring organization has received payment from the ADE and is fully and correctly documented and supported. The sponsor must disburse the reimbursement within five business days of receiving the funds from the ADE.
- The day care home may terminate its agreement for convenience at any time; however, if the provider has been deemed seriously deficient or has been suspended from Program payments, the provider may not terminate its agreement for convenience until all findings are resolved and the provider has been notified in writing that it has successfully completed all required corrective actions.
- Sponsoring organizations are prohibited from charging a day care home provider for its Program administrative services.
- Sponsoring organizations must inform tier II day care homes of all of their options for receiving reimbursement for meals served to enrolled children. These options include:
  1. Electing to have the sponsoring organization attempt to identify all income-eligible children enrolled in the day care home. This will be done through a collection of free and reduced price applications and/or possession by the sponsoring organization or provider of other proof of a child or household's participation in a categorically eligible program. The provider will receive tier I rates of reimbursement for the meals served to identified income-eligible children; or
  2. Electing to have the sponsoring organization identify only those children for whom the sponsoring organization or day care home possess documentation of the child or household's participation in a categorically eligible program, under the expanded categorical eligibility provision contained in §226.23(e)(1). The provider will receive tier I rates of reimbursement for the meals served to these children; or
  3. Electing to receive tier II rates of reimbursement for all meals served to enrolled children;
- The provider has a right to transfer to a new sponsoring organization one time per fiscal year.
- The provider has the right to request an administrative review if a sponsoring organization denies an application, issues a notice of proposed termination of the day care home's Program agreement, or if a sponsoring organization suspends participation due to health and safety concerns.

### 9.5 Civil Rights and Notification Requirements

The “Building for the Future” flier is the primary parental notification document. Provider must post the “Building for the Future” flier, or a similar notification to parents, or they may provide a copy to parents when child enrolls in program. They must also provide their sponsoring organization’s name and telephone number. If the day care home elects to provide a copy to parents or guardians when a child enrolls, the provider should have the parent/guardian sign a statement that certifies they have received a copy of the Building for the Future flier and the sponsoring organization’s name and telephone number.

Providers must advise applicants and participants at the service delivery point (i.e. when children are enrolled) about the program and its benefits, including their right to file a complaint, how to file a complaint, and the complaint procedures. Providers must also be able to explain the procedures of filing a civil rights complaint to Sponsors and reviewers (i.e. ADE, USDA).

The approved non-discrimination statement must be used where appropriate (refer to Chapter 14). This may include websites, brochures, on advertisements for their day care business, on menus, and any other materials used that may be provided to the public.

Providers must provide their sponsoring organization with actual beneficiary data by racial and ethnic category on an annual basis. Racial and ethnic data can be obtained in three ways:

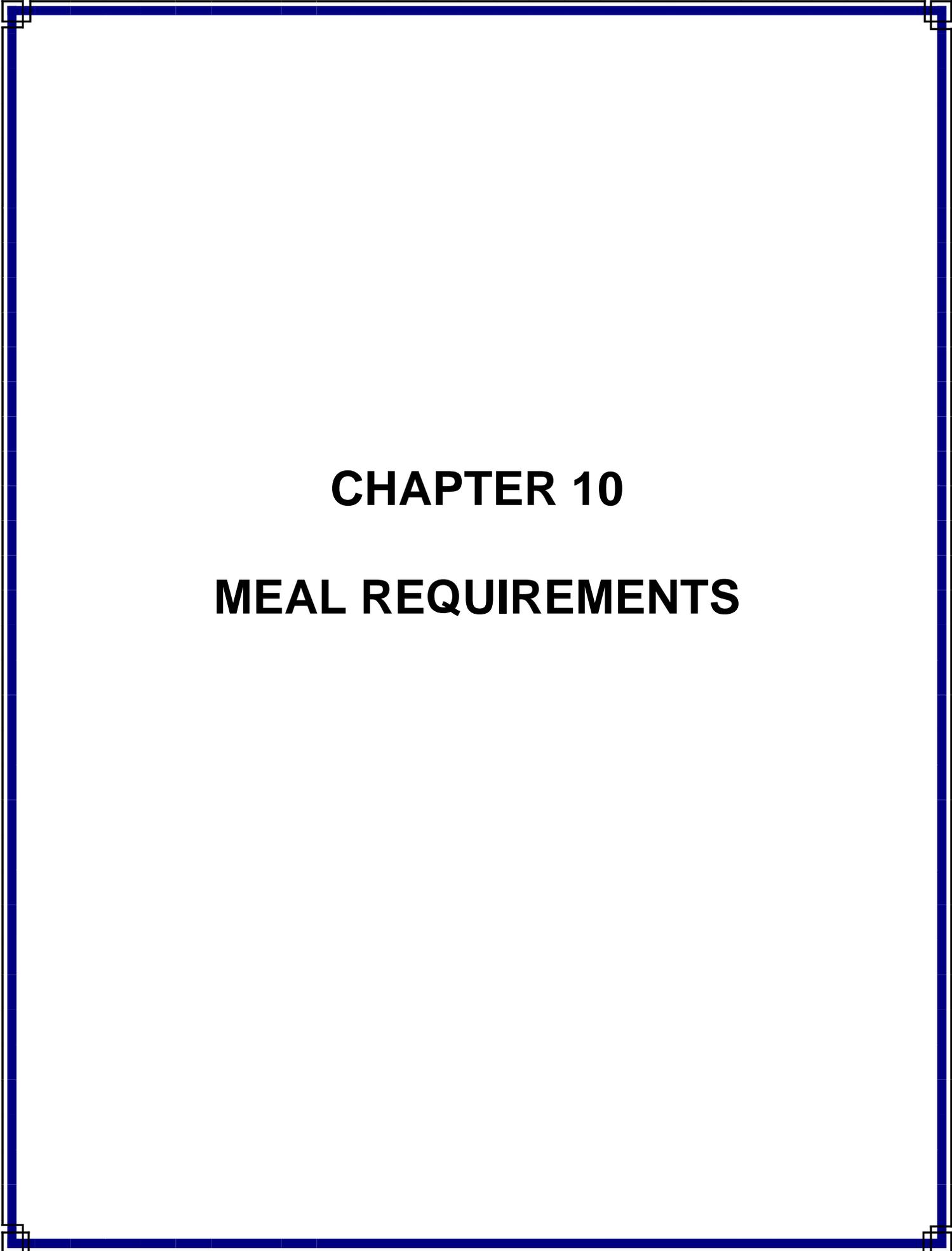
- Self-reported (preferred method) – household applications and enrollment forms that are completed each year and submitted to the sponsoring organization have a section for the household to identify their racial and ethnic data; however, households are not required to complete this. Parents/guardian of beneficiaries may be asked to identify the racial or ethnic group of the participant only after it has been explained, and they understand, that the collection of this information is strictly for statistical reporting requirements and has no effect on the determination of their eligibility to receive benefits under the program. Data collectors may not second guess, change, or challenge a self-declaration of ethnicity/race made by a participant unless such declarations are blatantly false.
- Visual identification by the provider
- Personal knowledge, records or other documentation your agency possesses that identifies household racial/ethnic data

Such collection systems must ensure that:

- The actual beneficiary data will be maintained on file at the institution and retained for 5 years; and
- The data will be maintained under safeguards, restricting access of records only to authorized personnel.

#### **Sources**

- 7 CFR 226.18
- Civil Rights Instruction 113-1



**CHAPTER 10**

**MEAL REQUIREMENTS**

10.1 Meal Pattern Requirements

The CACFP infant and child meal patterns were designed by the USDA to assure the service of well balanced, nutritious meals that supply the kinds and amounts of foods children require to meet their nutritional, developmental, and energy needs. The meal pattern is a listing of food components that are required to be served to all enrolled participants in order to be claimed for reimbursement. There are four food components: milk, fruits and vegetables, grains and breads, and meat or meat alternate. All components must be served at the same time, including milk.

CHILD & ADULT CARE FOOD PROGRAM – MEAL PATTERN FOR <u>CHILDREN</u>					
MEALS	REQUIRED COMPONENTS	1 & 2 YEARS	3 - 5 YEARS	6 – 12 YEARS	FOOD COMPONENTS
<b>BREAKFAST</b>	1 milk	1/2 cup	3/4 cup	1 cup	fluid milk <b>and</b> juice <sup>1</sup> , fruit and/or vegetable <b>and</b> bread or cornbread, biscuits, rolls, or muffins or cold dry cereal or cooked cereal, pasta, noodles, or grains
	1 fruit/vegetable	1/4 cup	1/2 cup	1/2 cup	
	1 grain/bread <sup>2</sup>	1/2 slice 1/2 serv	1/2 slice 1/2 serv	1 slice 1 serving	
		1/4 cup or 1/3 oz. 1/4 cup	1/3 cup or 1/2 oz. 1/4 cup	3/4 cup or 1 oz. 1/2 cup	
<b>LUNCH</b> <b>or</b> <b>SUPPER</b>	1 milk	1/2 cup	3/4 cup	1 cup	fluid milk <b>and</b> juice <sup>1</sup> , fruit and/or vegetable (2 or more total) <b>and</b> bread or cornbread, biscuits, rolls, or muffins or hot cooked cereal, pasta, noodles, or grains <b>and</b> lean meat, poultry, fish or cheese or egg or yogurt or cooked dry beans or peas <sup>3</sup> or peanut, soy, other nut or seed butters or peanuts, soy nuts, tree nuts or seeds <sup>4</sup>
	2 fruits/veg (2 separate kinds)	1/4 cup total	1/2 cup total	3/4 cup total	
	1 grain/bread <sup>2</sup>	1/2 slice 1/2 serv	1/2 slice 1/2 serv	1 slice 1 serving	
		1/4 cup	1/4 cup	1/2 cup	
	1 meat or meat alternate	1 oz.	1 1/2 oz.	2 oz.	
		1 oz. 1/2 egg 1/2 cup 1/4 cup 2 tbsp.	1 1/2 oz. 3/4 egg 3/4 cup 3/8 cup 3 tbsp.	2 oz. 1 egg 1 cup 1/2 cup 4 tbsp.	
		1/2 oz.	3/4 oz.	1 oz.	

<b>SNACK</b>  <b>(Select 2 of the 4 components must be from 2 different groups)</b>	<b>(Choose 2 of these 4)</b>				
	1 milk	1/2 cup	1/2 cup	1 cup	fluid milk
	1 fruit/vegetable	1/2 cup	1/2 cup	3/4 cup	juice <sup>1</sup> , fruit and/or vegetable
	1 grain/bread <sup>2</sup>	1/2 slice 1/2 serv	1/2 slice 1/2 serv	1 slice 1 serving	bread or cornbread, biscuits, rolls, muffins
		1/4 cup or 1/3 oz. 1/4 cup	1/3 cup or 1/2 oz. 1/4 cup	3/4 cup or 1 oz. 1/2 cup	or cold dry cereal  or cooked cereal, pasta, noodles, or grains
	1 meat or meat alternate	1/2 oz. 1/2 oz. 1/2 egg 2 oz. 1/8 cup 1 tbsp.	1/2 oz. 1/2 oz. 1/2 egg 2 oz. 1/8 cup 1 tbsp.	1 oz. 1 oz. 1/2 egg 4 oz. 1/4 cup 2 tbsp.	lean meat, poultry, fish, or cheese or egg or yogurt or cooked dry beans or peas <sup>3</sup> or peanut, soy, other nut or seed butters
		1/4 cup	1/2 cup	3/4 cup	or peanuts, soy nuts, tree nuts or seeds <sup>4</sup>

<sup>1</sup> Fruit or Vegetable Juice must be 100% full-strength.

<sup>2</sup> Breads/Grains must be whole-grain, enriched meal, or flour. Cereal must be whole-grain, enriched, or fortified.

<sup>3</sup> Dried beans or peas may be used as a meat alternate or vegetable component; but doesn't meet the requirement for both.

<sup>4</sup> Nuts/seeds meet only 50% of total meat/meat alternate serving and must be combined with another meat or meat alternate to fulfill *lunch* or *dinner* requirements. No more than 1 ounce of nuts/seeds may be used in any meal.

**Milk served must be low-fat (1%) or non-fat (skim) for participants age 2 and older.**

For specific information on creditable and non-creditable food items, please refer to:

- The ADE Creditable Foods Guide at: <http://www.azed.gov/health-nutrition/cacfp/cacfp-memosresourcesmanualsweb-links/guidance-manuals/>.
- The USDA Crediting Handbook at: <http://www.fns.usda.gov/crediting-handbook-child-and-adult-care-food-program>.

**Meat/Meat Alternate**

- Must be served at lunch and/or supper and may be served as one of the two required components for snack.
- May be served at breakfast as an additional component.
- May include but not limited to lean meat, fish, poultry, cheese, egg, yogurt, cooked dry beans/peas, peanut butter, other nut or seed butters. Caution should be taken to ensure

that a child is not allergic to nuts or nut butters before serving. Nuts are not recommended for children 3 years old and younger because choking can occur.

- Must be served in the main dish or in the main dish and one other menu item.
- A menu item must provide a minimum of  $\frac{1}{4}$  ounce of cooked, lean meat or its equivalent to be counted toward meeting any part of the meat or meat alternate requirement.
- When peanut butter is served as the only meat alternate at lunch or supper, the meal/snack must contain 3 tablespoons of peanut butter for children ages 3 to 5 to meet the minimum portion size. However, 3 tablespoons of peanut butter is often too much to be consumed by a preschool child. It is a best practice to offer a second meat/meat alternate (such as beans, cheese cubes, yogurt, or  $\frac{1}{2}$  of a hard-boiled egg) along with a smaller serving of the peanut butter.
- Dry beans or peas may count as a meat/meat alternate or vegetable/fruit requirement, but not both in the same meal.
- Frankfurters or hot dogs cannot contain byproducts (i.e. pork stomachs, snouts, tripe, hearts, tongues, fat, fatty tissue, lips, weasand, and spleen), cereals, or extenders (cereal, dried milk, isolated soy protein, sodium caseinate, dry or dried whey, whey protein, soy flour, soy protein, starchy vegetable flour, vegetable starch, wheat gluten, tapioca, and dextrin).
- When crediting commercially prepared products such as chicken nuggets or patties, chili-macs, fish sticks, pizzas, pot pies, sloppy Joes, and raviolis toward the meat/meat alternate component, the amount of meat/meat alternate per serving (not the total portion size) is the determining factor for crediting purposes. Because of the uncertainty of the actual amount of meat/meat alternate contained in these products, they should not be used unless (1) they are CN-labeled; or (2) you obtain a Product Formulation Statement signed by an official of the manufacturer (not a sales person) that shows how the crediting has been determined.
- Cottage cheese, cheese food or cheese spread must be served at twice the quantity as natural or processed cheeses.
- Eggs must be pasteurized. Eggs produced by pets in the home are not permissible to be served to enrolled children unless they have been pasteurized through an approved source.

### **Fruit/Vegetable**

- Breakfast must contain one serving of fruit or vegetable.
- Lunch/supper must contain two or more different fruits or vegetables or a combination of both. The smallest creditable portion size is  $\frac{1}{8}$  cup or 2 tablespoons. Best practice is to always serve one fruit and one vegetable.
- May be served as one of the two required components for snack.
- Fruit juice must be 100% full strength. Best practice is to limit juice to two times per week.
- Juice may not be served if milk is the only other component.
- Combination fruit or vegetable dishes count for one fruit or vegetable component. This includes items like fruit cocktail, fruit salad, mixed vegetables, vegetable medley's, etc.
- Double portions of a fruit or vegetable only count for one fruit or vegetable component. For example, a double serving of peaches only counts as one fruit serving. Two forms of the same product also only count as one serving of fruit or vegetable. For example serving

apple slices and applesauce, or grapes and raisins, or oranges and orange juice only count as one serving of fruit or vegetable.

- Home canned fruits or vegetables are not creditable.
- Dry beans or peas may count as a vegetable component or meat/meat alternate, but not both in the same meal.
- It is recommended that smaller portions of raisins be served, such as 1/8 cup (2 Tbsp). This smaller portion size must be supplemented with another fruit or vegetable to meet at least the minimum portion size required by age and meal pattern requirement. The pattern permits a combination of two fruits and/or vegetables. This combination is permitted even when only one portion is required. There is a minimum portion size of 1/8 cup for the smaller portion of the two vegetables/fruits. This recommendation is made because preschoolers may not be able to digest larger portions of dried fruit. In addition, since raisins have a sweet, sticky consistency, potentially increasing the risk of dental caries, the provider may wish to consider adding a crunchy item to the menu to help preclude this concern. Please note that dried cherries, cranberries, and blueberries are credited in the same manner as raisins.
- Only one vegetable or fruit component can be counted in a combination dish. For example, if a beef stew served contains stew meat, potatoes, carrots, and onions, the stew could only count for one vegetable or fruit component and an additional fruit or vegetable would need to be served.

### **Grains/Breads**

- Must be served at breakfast, lunch and/or supper and may be served as one of the two required components for snack.
- Must be served as an accompaniment to or a recognizable integral part of the main dish and not merely as an ingredient.
- One-quarter ( $\frac{1}{4}$ ) of a serving is the smallest amount that can be credited toward the minimum quantities of grains/ breads specified in program regulations.
- May include but not limited to rolls, muffins, cornbread, biscuits, cooked or cold dry cereal, pasta, noodle products, or cereal grains.
- Grains/breads must be whole-grain, enriched, or made from whole-grain or enriched meal or flour. Cereal products must be whole-grain, enriched, or fortified. The product label must indicate that the product is enriched or whole-grain; made from enriched or whole-grain meal, flour, bran, and/or germ; or is fortified. It is a best practice to serve at least half of daily grain servings as whole-grain for all ages at each calorie level.
- French, Vienna, Italian, Syrian, and other specialty breads are commercially made and sometimes prepared with unenriched flour. Check the ingredient statement or contact the manufacturer to be sure that the product is made with enriched or whole-grain flour/meal, bran, or germ.
- Toaster pastries (“Pop Tarts”®), coffee cakes, doughnuts, sweet rolls, and fruit-grain/granola bars are allowed for breakfast and snacks. Cookies, dessert pies, cakes, and brownies may be served as snacks only. Sweet grains may not be served more than twice a week.
- Corn grain products must be labeled as whole corn (or other “whole corn” designations such as whole-grain corn, whole ground corn or whole-corn flour) or enriched corn (or

other “enriched corn” designations such as enriched yellow cornmeal, enriched corn flour, enriched corn grits, etc...).

### **Milk**

- Fluid milk must be served at breakfast and lunch and may be served as one of the two required components for snack.
- Fluid milk means pasteurized fluid unflavored or flavored skim (fat-free) milk, low fat (1%) milk, whole milk, or cultured buttermilk, all of which must meet State and Local standards.
- Milk must be served as a beverage and/or poured over cereal in order to be credited toward the milk requirement. Both lunch and supper must contain a serving of fluid milk as a beverage. Milk is not creditable when used in cooking for such foods as cooked cereals, custards, puddings, etc.
- The ADE recommends that whole milk be served children 12 months through 23 months, to ensure sufficient quantities of fat (including linoleic acid) are provided.
- Children who are 24 months and older must be served fat-free (skim) or low-fat (1%) milk, fat-free or low-fat lactose reduced milk, fat-free or low-fat lactose free milk, fat-free or low-fat buttermilk, or fat-free or low-fat acidified milk.
- Lactose-free and lactose-reduced milks may be offered as options for program participants who are lactose-intolerant.
- If fruit juice is served for snack, fluid milk may not be served as the only other component.
- Flavored milks are considered high sugar items.
- Mothers who wish to continue providing breastmilk for their babies older than 12 months of age can do so without having to submit a medical statement. Breastmilk is a substitute for cow’s milk in the meal pattern for children.
- Some parents may request that the caregiver continue feeding their babies infant formula after 12 months of age. A transition time of 1 month (from the date an infant turns 12 months to 13 months of age) is permitted during which a medical statement is not required. If a parent requests that the caregiver continue to serve infant formula beyond the age of 13 months, a statement from a recognized medical authority must be on file.

10.2 Infant Meal Requirements

<b>CHILD &amp; ADULT CARE FOOD PROGRAM - MEAL PATTERN FOR <u>INFANTS</u></b>			
	<b>Birth - 3 months</b>	<b>4 - 7 months</b>	<b>8 - 11 months</b>
<b>Breakfast</b>	4-6 fluid ounces breast milk or iron-fortified infant formula	4-8 fluid ounces breast milk or iron-fortified infant formula  0-3 tablespoons infant cereal (optional)	6-8 fluid ounces breast milk or iron-fortified infant formula  2-4 tablespoons Iron-fortified infant cereal  1-4 tablespoons fruit and/or vegetable
<b>Lunch or Supper</b>	4-6 fluid ounces breast milk or iron-fortified infant formula	4-8 fluid ounces breast milk or iron-fortified infant formula  0-3 tablespoons infant cereal (optional)  0-3 tablespoons fruit and/or vegetable (optional)	6-8 fluid ounces breast milk or iron-fortified infant formula  1-4 tablespoons fruit and/or vegetable  2-4 tablespoons infant cereal or 1-4 tablespoons meat, fish, poultry, egg yolk, cooked dry beans, or dry peas, or ½-2 ounces cheese or 1-4 ounces cottage cheese, cheese food, or cheese spread
<b>Supplement</b>	4-6 fluid ounces breast milk or iron-fortified infant formula	4-8 fluid ounces breast milk or iron-fortified infant formula  0-3 tablespoons infant cereal (optional)	2-4 fluid ounces breast milk, iron-fortified infant formula, or full strength 100% fruit juice  0-1/2 slice bread or 0-2 crackers (optional)
<ul style="list-style-type: none"> <li>◇ Juice may not be served as a fruit and/or vegetable component at breakfast, lunch, or supper</li> <li>◇ 0-3 T means the component is only required if the infant is developmentally ready; and</li> <li>◇ Portion size not listing zero as a measurement indicates that component <u>must</u> be offered.</li> <li>◇ Infant formula and infant cereal must be iron-fortified ( at least 1 mg of iron per 100 calories of formula when prepared).</li> <li>◇ For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.</li> </ul>			

Providers must purchase and offer all required infant meal components to ensure infants will have access to creditable meals in the event the parent or guardian forgets to supply any components or if they elect to have the provider supply any portion of meals and/or snacks. If an infant requires a specific formula for medical reasons or personal preference, the parent or guardian may decline the infant formula offered by the day care home and provide an appropriate formula. This should be documented on the child enrollment form. If parent or

guardian chooses to provide formula or breast milk, the meal is reimbursable unless the mother comes to the provider's home to nurse (exception: she is a staff member). Infant meals are not reimbursable if parent or guardian provides all components for infants eight months through eleven months. The day care home must provide at least one component.

Commercially or home-prepared vegetables or fruits can be fed to infants. Commercially prepared vegetables and/or fruits must list a fruit or vegetable as first ingredient or list vegetable or fruit as the first ingredient and contain multiple vegetables or multiple fruits to be creditable. The following items are **not** creditable for infant meals or snacks:

- Mixed jarred foods (i.e. chicken noodle, beef with vegetables). The amounts of each ingredient are either insufficient or vary from product to product and by manufacturer.
- Jarred "wet" infant cereals.
- Iron-fortified dry infant cereals containing fruit.
- Cereals designed for older children and adults.
- Jarred cereals, desserts or pudding that lists a fruit as the first ingredient.
- Commercially prepared fruit or vegetable with water listed as the first ingredient.
- Commercially-prepared combination dinners. They are difficult to determine actual amount of food components in dinners. They may be served as extras.
- Commercial fish sticks, other commercial breaded fish products, canned fish with bones, hot dogs, and sausages—these are not reimbursable because they are not designed by their manufacturers for consumption by infants (less than 12 months of age). Infants may choke on these foods and fish sticks and other breaded fish products may have an accidental bone.
- "Baby food" meat sticks (which look like miniature hot dogs) - these are not reimbursable because, by the manufacturer's declaration, they are designed to match the skills of children over 12 months of age.
- Home-canned meats—these meats should not be served at all because they may contain harmful bacteria if improperly canned.
- Nuts, seeds, and nut or seed butters (i.e. peanut butter)
- Yogurt does not meet meal pattern requirements as meat alternate for infants.
- Cow's milk may not be served to infants 0-12 months without a written medical statement signed by a medical authority.
- Honey contains harmful botulism spores

Do not feed any shellfish (includes shrimp, lobster, crab, crawfish, scallops, oysters, clams) to babies less than 1 year of age—these types of seafood can cause severe allergic reactions in some babies. Do not feed any of the following fish (which may contain high levels of harmful mercury) to babies or young children: shark, swordfish, king mackerel, or tilefish.

Avoid feeding babies these meats or meat alternates (they are higher in fat, lower in protein): bologna, salami, luncheon meats, other cured meats, fried meats, and the fat and skin trimmed from meats.

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Egg yolk may be introduced to infants at or after 8 months of age. Do not introduce egg whites and whole egg (it contains egg white) to children younger than 1 year.

Cheese may be introduced to infants 8 months or older. Small thin slices or strips of cheese are easier and safer. Do not feed chunks of cheese, which can cause choking. If serving cheese, regular cheese (such as natural cheddar, colby, or mozzarella) and cottage cheese are the best choices. Cheese food, cheese spread, and pasteurized process cheese are generally higher in salt than regular cheeses or cottage cheese. Commercially prepared plain yogurt, made from low-fat or whole milk, may be introduced and served in small amounts to infants 8 months and older; but, is not reimbursable.

Any cooked dry beans and dry peas, such as kidney beans, lima beans, pinto beans, or chick peas, may be served to babies 8 months or older.

Due to the risk of choking, do not feed babies corn chips, pretzels, cookies, granola bars, crackers or breads with seeds, nut pieces, or whole grain kernels, and whole kernels of cooked rice, barley, or wheat; these should be finely ground or mashed before feeding to babies.

To prevent choking hazards, cereal may not be fed to an infant out of a bottle, unless supported by a medical statement signed by a medical authority. Additionally, bottles should be held by the provider or by the infant when they are developmentally ready to hold their own bottle. Bottles may not be propped. Propping means a young baby is given a bottle to drink by itself and the bottle is propped up (with a pillow, for example) so that it can flow into the baby's mouth. Propping a bottle can cause choking and suffocation, possibly cause ear infections and baby bottle tooth decay, and deprive the baby of important cuddling and human contact.

Breastmilk provided by the parent must be stored in a refrigerator kept at 39 degrees Fahrenheit or below and can be kept for up to 72 hours from when it was collected.

For more information and tips on feeding infants, visit <http://www.fns.usda.gov/tn/feeding-infants-guide-use-child-nutrition-programs>.

### 10.3 Meal Substitutions for Medical Reasons

Providers are required to make appropriate food substitutions to the meal patterns for children whose disability restricts their diet. A disability is a condition where a medical professional finds that an impairment limits a life activity, such as breathing, to the extent that the food should not be eaten at all by the child. Only a licensed physician, or recognized medical authority, can determine whether or not a child has a disability that restricts a child's diet. A licensed medical professional is someone who is recognized by the State licensing board where the provider lives and has the authority to issue medical orders.

Providers are not required, but are encouraged, to make substitutions for children who are not disabled but are unable to eat the regular meal because of medical or other special dietary needs (i.e. lactose intolerance). A food intolerance is when there is a reaction to a food, such as a stomach ache. A medical professional might recommend that the food be avoided, but does not order that the child cannot have it.

A medical statement is required for all substitutions that cause a meal and/or snack not to include a fully reimbursable meal. The medical statement must describe the disability, intolerance, or other special dietary need and how it limits the child's diet. It must also describe what food(s) the child may not have and which food(s) must be substituted. All medical statements must be completed and signed by a licensed medical authority.

Some children cannot drink fluid milk due to medical or other special dietary needs that are not considered a disability. In these cases, parents may request, in writing, that the provider serve non-dairy beverages in lieu of fluid milk. The parent must indicate the medical or special dietary need for the requested substitution. The non-dairy beverage must be nutritionally equivalent to milk, even if accompanied by a medical statement, and must meet the nutritional standards for fortification of calcium, protein, vitamin A, vitamin D, and other nutrients to levels found in cow's milk, as outlined in the National School Lunch Program (NSLP) regulations at 7 CFR 210.10 (m)(3). The following have been determined to be nutritionally equivalent to fluid milk:

- 8th Continent Soymilk (original, vanilla & light chocolate)
- Pacific Natural Ultra Soy Milk (plain & vanilla)
- Kikkoman Pearl Organic Soymilk (creamy vanilla & chocolate)
- Great Value Original Soy Milk
- Kirkland Organic Plain Soy Milk

No other varieties of non-dairy beverages have been identified to be nutritionally equivalent to milk. Some examples of non-dairy beverages that do not meet this requirement are almond milk, coconut milk, soy milk other than the one's identified above, and rice milk. The provider can make such substitutions at its discretion.

FNS may approve variations in the food components of the meals on an experimental or a continuing basis in any day care home where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs. If a provider wants to serve meals that vary from USDA meal patterns, the provider must submit an alternate meal pattern with justification for approval. The following resource should be consulted for certain religious preferences: "FNS Instructions 783-13, Rev 3: Variations in Meal Pattern Requirements: Jewish Schools, Child Care Institutions and Service Institutions."

Meal substitutions for medical reasons or personal preferences that can be made within the meal pattern requirements do not require a medical statement or other documentation.

**10.4 Menu Requirements**

Cycle menus are menus that repeat on a recurring basis. The use of cycle menus is encouraged to allow for ease in planning and for effective purchasing. These cycle menus should be reviewed on a regular basis, since conditions affecting the meal preparation may change. Cycle menus are allowable, but must be a minimum of four weeks; which means the same entrees may not be served over and over within a four week time frame.

The menus submitted to the sponsoring organization should document what was served. Substitutions made within the meal pattern allow a provider to serve foods that meet a child's food preferences, food allergies or other health concerns, or when the menu item is not available. Substitutions must be documented on menus at the time the provider decides to make the substitution.

Due to the difference in meal pattern requirements for infants and children one year and older, separate records must be kept for infants that document the food item(s) offered to each infant for each meal and/or snack served.

Providers must ensure no more than two high sugar items and no more than two high fat items are served per week. High sugar items may only be served during breakfast or snack. High sugar/high fat products include, but are not limited to:

Low-quality, high-fat food items  
(Greater than 35% total calories from fat)

<b>Croissants</b>	<b>Sausage/bacon</b>	<b>Hot Pockets</b>	<b>Corn dogs</b>
<b>Margarine/Butter</b>	<b>Hot dogs</b>	<b>Bologna</b>	<b>Tater tots</b>
<b>Salami/Pepperoni</b>	<b>Chicken Nuggets/Patties</b>	<b>Fish Sticks Nuggets/Shapes</b>	<b>Tortilla chips/Potato Chips</b>
<b>French fries (homemade, oven-baked potato wedges are not high fat)</b>			
<b>Full-fat Cream Cheese, Sour Cream, Mayo, Tarter Sauce, Dressings and Dipping Sauces</b>			

High-sugar food items  
(Greater than 35% total sugar by weight)

<b>Syrup</b>	<b>Honey</b>	<b>Donuts</b>	<b>Brownies</b>	<b>Cookies</b>	<b>Pop Tarts</b>
<b>Granola Bars</b>	<b>Cereal bars</b>	<b>Vanilla Wafers</b>	<b>Gelatin/Jell-O</b>	<b>Jam/Jelly</b>	<b>Cake/Cupcake</b>
<b>Custard/Pudding</b>	<b>Toaster Pastries</b>	<b>Rice Krispie Treats</b>	<b>Iced-Animal Cracker</b>	<b>Quick Breads/Muffins</b>	<b>Cinnamon Rolls/Danish</b>
<b>Flavored Milk, including chocolate</b>			<b>High Sugar Breakfast Cereals</b>		

This list is to be used for reference and is not all inclusive. Excessive high fat or high sugar items will result in a finding.

## 10.5 Child Nutrition (CN) Labels & Product Formulation Statements

### CN Labels

CN labels are required for commercially prepared, processed main dish products which contribute to the meat/meat alternate component of the meal pattern requirements. Examples of these products include, but are not limited to, cheese or meat pizzas, meat or bean and cheese burritos, egg rolls, and breaded fish portions. This does not apply to homemade products that are made from scratch because the provider can control the portion sizes for the required components. Providers should maintain recipes for homemade entrees that would otherwise require a CN label and have them available during visits and/or administrative reviews. Other items that would require a CN label include, but are not limited to: chicken nuggets, chicken patties, chicken tenders, frozen lasagna, frozen mac and cheese, frozen meatballs, corn dogs, raviolis, etc.

Sponsors and/or providers must keep records of the original CN label from the product package. If the actual CN label is laser printed on the product package or cannot be easily removed, then a photocopy of the valid CN label may be provided during an administrative review, as acceptable documentation. A photograph of the CN label while it is attached to the product carton is also acceptable documentation. CN labels that are photocopied or photographed must be visible and legible. Printing a fact sheet or manufacturer's statement from a website does not document that the CN-labeled product was purchased.

CN labels can be maintained in the provider's home (must be made available either during visits or administrative review) and/or in the provider's file at the sponsor's office. The ADE recommends that providers send in CN labels with their monthly menus. It is the sponsor's responsibility to ensure a CN label is on file, whether at the provider's home or sponsor's office, for each provider who is serving a main dish that requires a CN label. The sponsor must also ensure that the provider is actually serving the same product for the CN label on file. This can be done through the monitoring process.

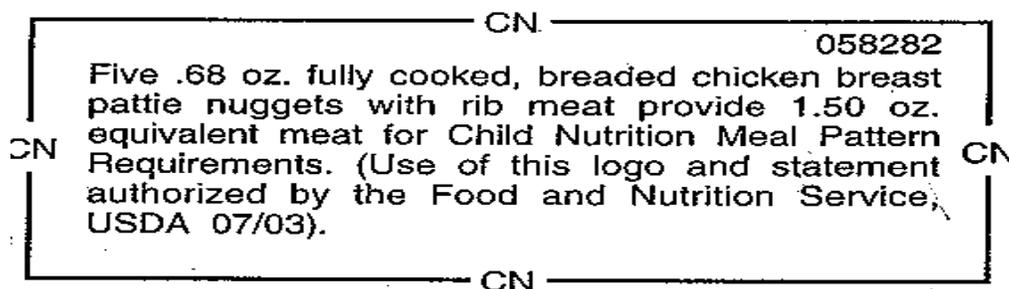
A CN labeled product will always contain the following:

- The CN logo\*, which is a distinct border;
- The meal pattern contribution statement;
- A unique 6-digit product identification number (assigned by FNS) appearing in the upper right hand corner of the CN logo;
- The USDA/FNS authorization statement;
- The month and year of final FNS approval appearing at the end of the authorization statement;
- Plus the remaining required label features: product name, inspection legend, ingredient statement, signature/address line, and net weight.

\*For any CN-labeled product to be valid, the purchased product label must have the CN logo on it. A company may have a legitimate CN label approval, but unless the product is produced under inspection following all CN requirements and the CN logo is part of the printed label on the purchased product, it is not a CN-labeled product and is not warranted by USDA. A valid CN logo will never be a separate sticker. In addition, a fact sheet or other manufacturer

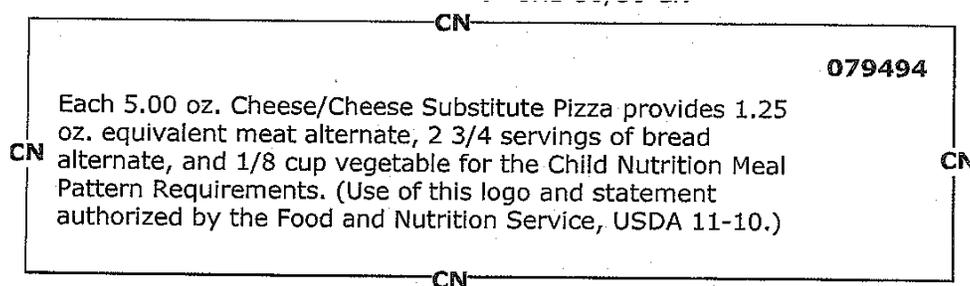
documentation is never authorized to have the CN logo on it. Proper documentation of a CN-labeled product is an actual label on the purchased product carton.

A sample CN logo:



CN labels do expire and must be renewed. As new products are developed, old ones are discontinued, and labels expire, the following USDA list is updated and contains a complete list of products that are currently CN labeled: <http://www.fns.usda.gov/cnlabeling/authorized-manufacturers-and-labels>.

Sponsors and providers should review CN labels carefully to ensure the serving size is realistic for the age groups being served. In some cases, a very large portion must be served to meet the meal pattern requirements, which could contribute to excess amount of components and calories being consumed by enrolled children. In the example below, a three to five year old would need to be served one pizza, plus an additional quarter of a pizza to meet the meal pattern requirements for the meat or meat alternate component at lunch.



Another example: A 15-ounce serving of canned ravioli is needed to provide the 1.5 ounces of the required meat/meat alternate; while the same amount of ravioli greatly exceeds the grains/breads requirement. As a result, a smaller portion of ravioli may need to be served with a second meat/meat alternate in order to meet this requirement without serving an excessive amount of grains/breads.

### **Product Formulation Statements (previously known as Product Analysis Sheets)**

A Product Formulation Statement is an information sheet obtained from the manufacturer with a detailed explanation of what the product actually contains and the amount of each ingredient by weight. When purchasing a commercially prepared, processed product without a CN label, a provider may request a signed Product Formulation Statement on manufacturer's letterhead that demonstrates how the processed product contributes to the meal pattern. It should contain the original signature of an authorized company representative, not that of a sales representative. Providers must maintain files on nutrient information to meet the requirements of program

regulations in 7 CFR 210 and 220. If there is no Nutrition Facts panel on the package, nutrient information must be obtained from the manufacturer.

An appropriate Product Formulation Statement will provide specific information about the product and show how the food credits toward the CN meal pattern citing CN Program resources and/or regulations. Specific policies for Alternate Protein Products and Food-Based Menu Planning are available on the FNS website at: <http://www.fns.usda.gov/cnlabeling/food-manufacturersindustry>.

When reviewing Product Formulation Statements prior to purchasing processed products, refer to:

- A Reviewer's Checklist for Evaluating a Manufacturer Product Formulation Statement for Meat/Meat Alternate Products on the FNS Web site at [http://www.fns.usda.gov/sites/default/files/reviewer\\_checklist.pdf](http://www.fns.usda.gov/sites/default/files/reviewer_checklist.pdf)
- Product Formulation Statement templates for documenting the meat/meat alternates (M/MA), grains and fruits/vegetables components are available on the FNS Web site at <http://www.fns.usda.gov/cnd/cnlabeling/foodmanufacturers.htm>

These documents may be used to determine how a product credits toward the meat/meat alternates, grains, fruits and vegetables component(s) of the meal pattern requirements.

The Product Formulation Statement may need to be modified for various types of products available in the market place. For example, cheese pizza could have crediting information about the red/orange vegetable subgroup in addition to the meat/meat alternates and grain components. The crediting information for each meal component may be documented on the same Product Formulation Statement. The manufacturer must clearly identify how each component contributes to meal pattern requirements. To verify the accuracy of a Product Formulation Statement:

- Determine that creditable ingredients listed in the Product Formulation Statement match a description in the *Food Buying Guide for School Meal Programs* (FBG) available at <http://www.fns.usda.gov/tn/food-buying-guide-school-meal-programs>. If a Product Formulation Statement claims to provide a higher meal component credit than what is listed in the FBG, then the statement must clarify all credited ingredients and demonstrate how the product provides that credit according to FNS regulations, guidance, or policy.
- Verify that the credit a product contributes to meal pattern requirements is not greater than the serving size of the product. For example, a 2.20 oz beef patty may not credit for more than 2.00 oz of meat/meat alternates.
- Assure that the creditable components are visible in the finished product. For example, fruit-filled pancakes may not credit toward the meat/meat alternates component because a meat/meat alternate component is not visible. In order for a product to claim a meat/meat alternates contribution, the product must have a visible meat or meat alternate present such as a sausage link, beans, cheese, or peanut butter and the method for crediting these items must be specified.

For more information regarding CN labels and Product Formulation Statements, go to: <http://www.fns.usda.gov/cnlabeling/child-nutrition-cn-labeling-program>.

### 10.6 Meal Service Requirements

A maximum of two meals and one snack or two snacks and one meal may be reimbursed per child, per day. When a provider applies to participate, he/she must provide the types and times the meals and/or snacks will be served. These meal times must be adhered to and strictly enforced, except for infants. Infants may be fed on demand. Meal times may be updated at any time; but, must be approved by the ADE prior to implementation. When submitting updated meal times to the ADE, it can be considered approved on the date it is sent to the ADE, unless notified by the ADE for a correction. The following are the meal time requirements:

Meal Type	Allowable Meal Times	Claimable Duration of Food Service
<b>Breakfast</b>	6am-9am	1 ½ hours
<b>AM Snack</b>	Between B & L	1 hour
<b>Lunch</b>	11am-1pm	2 hours
<b>PM Snack</b>	Between L & S	1 hour
<b>Supper</b>	5pm-7pm	2 hours
<b>Night Snack</b>	After 7pm	1 hour

There must be a minimum of two hours between the start of each meal and/or snack. For example, if breakfast begins at 7:00 am, the earliest the next meal or snack can begin is at 9:00 am. There must be a minimum of 15 minutes between the end time of the last meal offered and the provider's closing hour of operation. The purpose is to allow enough time for children to consume the last meal or snack of the day. It also helps keep the provider in compliance by ensuring meals are not taken off the premises.

Providers can claim meals during shift care. Shift care is when a separate set of children are cared for at separate sets of time. For example, a provider might provide care for a certain group of children from 6:00 am to 12:00 pm and then another group of children from 12:30 pm to 5:00 pm. When claiming shift care meals, there must be a minimum of 30 minutes in between servings. For instance, a provider may wish to serve lunch to the morning group from 11:00 to 11:30 and then to the afternoon group from 12:00 pm to 1:00 pm.

Infants do not have to follow the meal time restrictions listed above. Infants may be fed on demand to allow flexibility in their schedules; however, meals may not be split up and claimed separately. For example, if eight ounces of formula or breast milk is offered as required by the meal pattern, and the infant only drinks half of it at one sitting and then the other half a couple hours later, it is only counted as a single meal even though it was served at two different times.

There are two styles of meal service that can be used in CACFP; traditional or pre-plated and family style. Traditional or pre-plated meal service means that at least the minimum portion of food for each required component is prepared by an adult and given to each child on a plate or tray.

Family style meal service means that the food is placed on a table for each child to serve him/herself. Participants may then select the foods they want and the amount of each food they want. Family style eating provides a learning experience where adults and children can sit together to eat meals and/or snacks. Adults are involved by eating the same food, modeling good eating habits, and, most importantly role-modeling social skills with the children. Proper portion sized utensils should be used in order to determine that the right serving size

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requirement is being served. If minimum portions are not available, the meals are not reimbursable. If a provider chooses family style meal service, he/she must ensure:

- Enough food is placed on the table to provide minimum portions of each component for all children at the table;
- Children must initially be offered and encouraged to accept the full required portion of each meal component;
- If the child initially refuses a food component or does not accept the full required portion, the provider must encourage the child to accept the full minimum portion of each food component throughout the meal;
- Any food placed on the table may not be reused or served as leftover at a later time. Food which has been prepared but not placed on the table may be served later if the properly stored and reheated to at least 165 degrees. Milk should be poured just before meal service begins and not sit longer than 15 minutes; and
- Providers may not claim seconds given to children for reimbursement.

Providers must ensure that meals are stored and prepared in a safe manner. This means all foods are stored at and cooked to the proper internal temperatures. Food storage (refrigerator, freezer, pantry, etc.) and preparation areas and equipment (counter tops, appliances, cooking utensils, etc) should be clean and free of any safety hazards (i.e. knives on the kitchen counter, food debris). Working thermometers should be in both the refrigerator and freezer to ensure proper temperatures are maintained. Food removed from its original packaging should be stored in containers approved for food storage (i.e. tupperware, zip lock bags, etc.) and be properly labeled and dated. Food that remains in its original container should be dated. Providers should plan for meals with the objective of serving one meal/snack per child. If there are leftovers, they may be served as long as all food safety precautions are taken. Food should never be stored on the floor. Dry food should be stored at least six inches off the ground. Trash cans should have lids to prevent pests. Meal service areas should be clean and free of hazards or debris.

Providers must wash their hands before preparing food and see that children wash their hands before eating. If using gloves, throw the gloves away after using or touching anything other than food.

Providers should not serve foods made with raw eggs, or allow children to eat raw batters; such products are at risk for bacterial contamination.

Providers should inspect produce for obvious signs of soil or damage prior to cutting, slicing, or dicing. Produce should be washed thoroughly under running water prior to serving or cutting. This prevents bacteria from spreading from the surface of the product to the inside. Keep cut fruit refrigerated. Bacteria multiply rapidly at room temperature.

Utensils and surfaces that have touched raw meat or poultry should be washed with soap and hot water to avoid contaminating other foods. Do not use the same platters, cutting boards, and/or utensils for uncooked and cooked meat or poultry dishes and ready-to-eat foods.

Store raw foods that must be cooked prior to serving on the refrigerator's bottom shelf to prevent their juices from coming in contact with other foods. Store ready-to-eat foods above raw, uncooked foods.

Do not hold a food in the temperature danger zone, 40 degrees to 104 degrees, for longer than 2 hours. After 2 hours, the food should be discarded.

### 10.7 Other Meal Requirements

Water keeps children hydrated and healthy. It helps build and maintain strong teeth (when it includes fluoride), helps rinse food from teeth and reduce acid in the mouth that contributes to dental cavities, and teaches healthy habits. Water must be made available throughout the day, including at meal times, at a child's request. Water is not part of a reimbursable meal and may not be served instead of fluid milk. Providers should use caution in serving too much water to young children before and during a meal or snack because it can reduce the amount of food and milk consumed by the children. Water is a great option to serve in lieu of other high calorie, sweetened beverages (juice drinks, soda, sports drinks, etc.) that are served outside of meal times.

Meals purchased from a fast food establishment or restaurant may not be served to meet the requirements of a reimbursable meal. Meals brought from outside a provider's home (i.e. mom sends a lunch) are not eligible to be claimed for CACFP reimbursement. They may be served as extras.

Field trips are allowable as long as the following are met:

- All meals meet the meal pattern requirements,
- Meals are served following all health and safety requirements (i.e. ensuring potentially hazardous foods are kept at proper temperatures),
- All ratios are adhered to, and
- The provider gives advance notice to their sponsoring organization

In order to claim a meal, the provider must abide by the following criteria:

- The provider must serve a fully reimbursable meal that meets the meal pattern requirements and are supported by complete and up to date attendance, meal count, and menu records;
- The child must be present and participate in the meal service;
- All meal components must be served together;
- The meal must be fully consumed on the premises in a congregate setting. Meals sent home with a child due to the parent picking up the child during meal service cannot be claimed;
- Meal must be served during approved meal service time;
- The provider can be reimbursed for a maximum of two meals and one snack or two snacks and one meal per child, per day;
- Only children who are enrolled can be claimed and the number of children cannot exceed the allowable ratio;
- Payment may be made for meals served to provider's own child(ren) or foster children only when:
  1. Their child(ren) are enrolled and participating in the child care program during the time of the meal service;

2. At least one enrolled, non-resident child is present and participating in the child care program;
  3. The provider meets the family size income standards for free or reduced price meals;
- Seconds may be served but are not reimbursable; and
  - If a school age child receives a breakfast, lunch or afterschool snack at school, a provider may not claim the same meal.

### **Sources**

- 7 CFR 226.20
- USDA Crediting Handbook for CACFP
- Family Day Care Home Monitoring Handbook by USDA
- Arizona Food Code

# **CHAPTER 11**

## **TIERING**

### 11.1 Tiering Determination

Sponsoring organizations are responsible for determining the classification of a day care home and maintaining the supporting documentation in accordance with Program regulations. The classification types are tier I, tier II high, tier II low, or tier II mixed.

If the Sponsoring Organization is not able to verify that the home meets the tier I criteria, the home must be classified as a tier II home.

Determinations of a day care home's eligibility as a tier I day care home shall be valid for one year if based on a provider's household income or categorical eligibility and five years if based on school data or census data. However, a sponsoring organization, ADE, or USDA may change the determination if information becomes available indicating that a home is no longer in a qualified area.

Note: If free and reduced-price enrollment data is reduced to less than 50% during the determination period, the provider is still classified as a Tier I provider for the remaining time frame. New providers who subsequently enter the program and live in the same area, who move within that area, or who move from that area to another area and back, must be determined by the most recent data obtained. Therefore it is possible for two providers to live in the same school attendance area and be classified differently.

## 11.2 Tier I

Each sponsoring organization of day care homes must determine which of the day care homes under its sponsorship are eligible as tier I day care homes. A sponsoring organization may use current school or census data, referred to as area eligible, provided by the ADE or free and reduced-price applications collected from day care home providers in making a determination for each day care home.

- Area Eligibility

A day care home is considered area eligible by using current school data provided by the ADE or by census data provided by FNS. The determination is valid for five years.

1. School Data – a provider who lives in a home that is located in the attendance area of any public school where at least 50 percent of the total number of children are certified eligible to receive free or reduced price meals.

To determine whether or not a day care home is area eligible based on school data, the sponsoring organization must first visit the following website to determine what schools are in the home's assigned attendance area:

<http://arizona.hometownlocator.com/schools/>. If this website is not available, sponsors may contact the school district directly to determine which schools are in the assigned attendance area of the day care home. The sponsor may document the conversation, including the date, name, and number of the district employee who provided the information. Additional acceptable documentation that may be used when AZ Hometown Locator is not available are district boundary maps that clearly identify which schools are assigned to a provider's neighborhood or other online searches provided by the district (i.e. Mesa Unified District).

Once the sponsoring organization determines which schools are in the attendance area of the day care home, it must obtain the most current free and reduced-price percentage report at <http://www.azed.gov/health-nutrition/frpercentages/>. If the schools data exceeds 50%, the provider is automatically eligible. If the report shows exactly 50%, the sponsor should contact the ADE to determine the provider's eligibility. The report is updated annually based on October's reports from the applicable schools and is released no later than February 15<sup>th</sup>.

2. Census Data – a provider lives in a home that is located in a geographic area as defined by FNS based on census data, in which at least 50 percent of the children residing in the area are members of households which meet the income standards for free or reduced price meals.

To determine whether or not a day care home is area eligible based on census data, the sponsoring organization should visit the following website to determine eligibility: <http://www.fns.usda.gov/areaeligibility>. Instructions for determining eligibility using these data are available here:

[http://www.fns.usda.gov/sites/default/files/Census%20Instructions%202014\\_0.pdf](http://www.fns.usda.gov/sites/default/files/Census%20Instructions%202014_0.pdf). Sponsors must use the most recent data available.

On occasion, a potential CACFP day care home is determined not to be area eligible, but is located immediately adjacent to an eligible area. Therefore, CACFP day care homes may be determined area eligible using either Census

Block Groups (CBGs) or Census Tracts. Census Tracts are geographical units that consist of one or more CBGs.

Additionally, based on analysis of the proposed location, with both the ADE and USDA Regional Office approval, up to three adjacent CBGs may be averaged, using a weighted average, to determine eligibility. In all CBGs being averaged, at least 40 percent of children must be eligible for free or reduced-price meals. Census Tracts may not be combined.

Therefore, using these flexibilities, CACFP day care homes are considered area eligible if:

- a. 50 percent or more of the children in a CBG are eligible for free or reduced-price school meals;
- b. 50 percent or more of the children in a Census Tract are eligible for free or reduced-price school meals; or
- c. The percentage of children eligible for free or reduced-price meals in up to three adjacent CBGs when averaged is 50 percent or more, provided that at least 40 percent of children in each of the combined CBGs are eligible for free or reduced-price meals, as described above.

If the tier I determination is based upon area eligibility, the provider must complete a meal benefit income eligibility form and qualify by household income in order to receive reimbursement for meals served to the provider's own children.

- Categorical Eligibility

A day care home is considered categorically eligible if the provider's household participates on the Special Nutrition Assistance Program (SNAP) and is verified by the sponsoring organization. The determination is valid for one year. A provider must complete and submit a meal benefit income eligibility form and include the assigned case number in the appropriate section. The sponsoring organization is responsible to verify the household's SNAP participation. A provider must provide the sponsoring organization with a current "Notice of Eligibility" for SNAP benefits. A SNAP document that does not specify the certification period is not adequate for documentation. Please note that a copy of a public assistance program identification card or letter is not acceptable as verification unless it contains an expiration date.

- Income Eligibility

A day care home is considered income eligible if the provider does not live in a tier I area and lives in a home whose household current income meets the income standards for free or reduced-price meals based on a completed meal benefit income eligibility form and whose income is verified by the sponsoring organization. The determination is valid for one year. It is the sponsoring organization's responsibility to compare the current household size and the current total household income as reported on the current meal benefit income eligibility form to the income eligibility guidelines for the current fiscal year. All household members who receive income must report that income on the meal benefit income eligibility form.

1. Determining Household Composition - household composition for the purpose of making an eligibility determination for free and reduced priced benefits is

based on an economic unit. An economic unit is a group of related or unrelated individuals who are not residents of an institution or boarding house but who are living as one economic unit, and who share housing and/or significant income and expenses of its members.

Generally, individuals residing in the same house are an economic unit. However, more than one economic unit may reside together in the same house. Separate economic units in the same house are characterized by prorating expenses and by economic independence from one another.

A child who is temporarily away at school (e.g., attending boarding school or college) is included as a member of the household. This also applies to foreign students attending boarding schools.

In cases where no specific welfare agency or court is legally responsible for the child or where the child is living with one parent, other relatives, or friends of the family, the child is considered to be a member of the household with whom s/he resides. Children of divorced or separated parents are generally part of the household that has custody.

A foster child is considered a member of the foster parents' household. The category of "foster child" also includes a child placed with relatives through a formal arrangement by the courts or State child welfare agency. A child is not considered a foster child if placed with relatives informally instead of through court or State intervention.

Family members not living with the household for an extended period of time are not usually considered household members. However, any member of the armed services who is activated or deployed in support of any military combat operation is counted as a household member.

2. Determining Reportable Household Income - Income is any money received on a recurring basis, including gross earned income, unless specifically excluded by statute. Gross earned income means all money earned before such deductions as income taxes, employee's social security taxes, insurance premiums, and bonds. Income includes but is not limited to:
  - a. Earnings from work
    - Wages, salaries, tips, and commissions;
    - Net income from self-owned business and farms; and
    - Strike benefits, unemployment compensation, and worker's compensation.
  - b. Welfare/child support/alimony
    - Public assistance payments/welfare benefits (e.g., TANF, General Assistance/General Relief); and
    - Alimony or child support payments.

Note: Benefits under SNAP and FDPIR are not counted as income.

- c. Retirement/disability benefits
      - Pensions, retirement income, veterans' benefits;
      - Social security;

- Supplemental security income; and
  - Disability benefits.
- d. Any other income
- Net rental income, annuities, and net royalties;
  - Interest and dividend income;
  - Cash withdrawn from savings;
  - Income from estates, trusts and/or investments;
  - Regular contributions from persons not living in the household;
  - An adopted child for whom a household has accepted legal responsibility is considered to be a member of that household. If the adoption is a “subsidized” adoption, which may include children with special needs, the subsidy is included in the total household income;
  - Any money made available by a member of the armed forces or on their behalf for the household is included as income to the household, with the exception of combat pay;
  - Family members not living with the household for an extended period of time are not considered members of the household for purposes of determining eligibility, but any money made available by them or on their behalf for the household is included as income to the household; and
  - Any other money that may be available to pay for the child(ren)’s meals
3. Current Income - Households must report current income on a free and reduced-price application. Current income means income received by the household for the current month, the amount projected for the first month for which the application is filled out or for the month prior to application. If this income is higher or lower than usual and does not fairly or accurately represent the household’s actual circumstances, the household may, in conjunction with sponsoring organizations, project its annual rate of income based on the guidelines on special situations.
4. Special Situations
- a. Projected Income for Seasonal Workers - seasonal workers and others whose income fluctuates usually earn more money in some months than in other months. Consequently, the previous month’s income may distort the household’s actual circumstances. In these situations, the household may project its annual rate of income and report this amount as its current income. If the prior year’s income provides an accurate reflection of the household’s current annual rate of income, the prior year may be used as a basis for the projected annual rate of income.
- b. Income for the Self–Employed - Self-employed persons may use last year’s income as a basis to project their current year’s net income, unless their current net income provides a more accurate measure. Self-employed persons are credited with net income rather than gross income.

Net income for self-employment is determined by subtracting business expenses from gross receipts.

- Gross receipts include the total income from goods sold or services rendered by the business.
  - Deductible business expenses include the cost of goods purchased, rent, utilities, depreciation charges, wages and salaries paid, and business taxes (not personal, Federal, State, or local income taxes).
  - Non-deductible business expenses include the value of salable merchandise used by the proprietors of retail businesses.
  - Net income for self-employed farmers is figured by subtracting the farmer's operating expenses from the gross receipts.
  - Gross receipts include the value of all products sold; money received from the rental of farm land, buildings, or equipment to others, and incidental receipts from the sale of items such as wood, sand, or gravel.
  - Operating expenses include cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, and farm taxes (but not local, State, and Federal income taxes).
- c. **Income from Wages and Self-Employment** - For a household with income from wages and self-employment, each amount must be listed separately. When there is a business loss, income from wages must not be reduced by the amount of the business loss. If income from self-employment is negative, it should be listed as zero.
- d. **Military Benefits**  
Benefits paid directly to the service person such as housing allowances and food or clothing allowances are considered income.
- e. **Deployed Service Members** - Only that portion of a deployed service member's income made available by them or on their behalf to the household will be counted as income to the household. Combat Pay is excluded as discussed below under Income Exclusions - Military Benefits - Combat Pay.
- f. **Foster Child's Income**  
If the household where the foster child resides applies for benefits for their non-foster children, then the foster child's personal income is considered when making an eligibility determination. The foster child's income can be from a part-time job or from any funds provided to the child for his/her personal use. (It is optional for the household to list foster children residing in the home).
- g. **Income for a Child Residing in an RCCI or Institutions** - Only the income earned by a child from full-time or regular part-time employment and/or personally received by the child while in residence at the RCCI or institution is considered income.
- h. **Child's Income** - The earnings of a child who is a full-time or regular part-time employee, or who receives income from other sources such as

Supplemental Security Income or Social Security, must be listed on the application as income.

Infrequent earnings, such as income from occasional baby-sitting or mowing lawns, are not counted as income and should not be listed on the application.

- i.* Alimony and Child Support - Any money received by a household in the form of alimony or child support is considered income to the receiving household. Any money paid by a household in the form of alimony or child support is not excluded as income for that household.
- j.* Garnished Wages and Bankruptcy - Income is the gross income received by a household before deductions. In the case of garnished wages and income ordered to be used in a specified manner, the total gross income must be considered regardless of whatever portions are garnished or used to pay creditors.

#### 5. Income Exclusions

- a. General - Income not to be reported or counted as income in the determination of a household's eligibility for free and reduced price meal benefits includes:
  - Any cash income or value of benefits excluded by statute; common exclusions are the value of benefits under SNAP or FDPIR and some Federal educational benefits;
  - Payments received from the Foster Care agency or court for the care of foster children;
  - Student financial assistance provided for the costs of attendance at an educational institution, such as grants and scholarships, awarded to meet educational expenses and not available to pay for meals;
  - Loans, such as bank loans, since these funds are only temporarily available and must be repaid;
  - Value of in-kind compensation, such as housing for clergy and similar non-cash benefits; and
  - Occasional earnings received on an irregular basis (not recurring, such as payment for occasional baby-sitting or mowing lawns).
- b. Military Benefits - An in-kind benefit is excluded, such as non-privatized on-base housing, where no cash is provided to the household. Other sources of excluded income related to the military are:
  - Family Subsistence Supplemental Allowance (FSSA) - By law, the FSSA is not counted as income in determining eligibility for free and reduced price meals; and
  - Privatized housing allowances received under the Military Housing Privatization Initiative are not counted as income. Under this privatization initiative, a housing allowance appears on the leave and earnings statement of service members living in privatized housing. Housing allowances for households living off-base in the general commercial/private real estate market are counted as income. The exclusion only applies to service members living in housing covered

under the Military Housing Privatization Initiative. Additional information about DOD's Military Housing Privatization Initiative, including a list of affected installations, may be found at <http://www.acq.osd.mil/housing/>.

- Combat Pay is excluded if:
  - a) Received in addition to the service member's basic pay;
  - b) Received as a result of the service member's deployment to or service in an area that has been designated as a combat zone; and
  - c) Not received by the service member prior to his/her deployment to or service in the designated combat zone.
- Combat pay as described above is extended to Deployment Extension Incentive Pay (DEIP). DEIP is given to active-duty service members who agree to extend their military service by completing deployment with their units without re-enlisting. This exemption applies only until the service members return to their home station. DEIP payments provided to service members who are not considered deployed are not exempt.
- c. Institutionalized Child's Income - Payments from any source directly received by the RCCI or institution on a child's behalf are not considered as income to the child.
- d. Lump Sum Payments - Lump sum payments or large cash settlements are not counted as income since they are not received on a regular basis. These funds may be provided as compensation for a loss that must be replaced, such as payment from an insurance company for fire damage to a house. However, when lump sum payments are put into a savings account and the household regularly draws from that account for living expenses, the amount withdrawn is counted as income.
- e. The following payments are excluded as income for Child Nutrition Programs:
  - Value of assistance to children and their families under the Richard B. Russell National School Lunch Act, the Child Nutrition Act of 1966, and the Food and Nutrition Act of 2008;
  - Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
  - Any payment to volunteers under Title I (VISTA and others) and Title II (RSVP, foster grandparents, and others) of the Domestic Volunteer Service Act of 1973 to the extent excluded by that Act;
  - Payments to volunteers under section 8(b)(1)(B) of the Small Business Act (SCORE and ACE);
  - National Flood Insurance Program (NFIP) payments—payments received by property owners under the NFIP;
  - Income derived from certain sub-marginal land of the U.S. that is held in trust for certain Indian tribes;

- Student financial assistance received under Title IV of the Higher Education Act of 1965, including the Pell Grant, Supplemental Education Opportunity Grant, State Student Incentive Grants, National Direct Student Loan, PLUS, College Work Study, and Byrd Honor Scholarship Programs, to the extent excluded by that Act;
- Payments under the Agent Orange Compensation Exclusion Act (Public Law 101-201);
- Payments under the Child Care and Development Block Grant (Public Law 102-508);
- Payments and allowances to individuals participating in AmeriCorps to the extent excluded by the National and Community Service Act of 1990;
- Payments under the Low-income Home Energy Assistance Act (Public Law 99-125);
- Payments under the Disaster Relief Act of 1974, as amended by the Disaster Relief and Emergency Assistance Amendments of 1989 (Public Law 100-707);
- Payments received under the Carl D. Perkins Vocational Education Act, as amended by the Carl D. Perkins Vocational and Applied Technology Act Amendments of 1990 (Public Law 101-392);
- Value of any child care payments made under section 402(g)(1)(E) of the Social Security Act;
- Value of any “at-risk” block grant child care payments made under section 5081 of Public Law 101-508, which amended section 402 of the Social Security Act;
- Value of any child care provided or paid for under the Child Care and Development Block Grant Act, as amended (Public Law 102-586, Sec. 8(b));
- Payments received under the Old Age Assistance Claims Settlement Act, except for per capita shares in excess of \$2,000;
- Payments received under the Cranston-Gonzales National Affordable Housing Act (Public Law 101-625); and
- Payments received under the Housing and Community Development Act of 1987.
- This list is not all inclusive. Legislation is periodically enacted that excludes income for the purposes of the school meals/milk programs. Here is a link to the list of income excluded by Federal law that is maintained by the Supplemental Security Income Program:  
[http://www.socialsecurity.gov/OP\\_Home/cfr20/416/416-app-k.htm](http://www.socialsecurity.gov/OP_Home/cfr20/416/416-app-k.htm)

Sponsoring organizations must verify the provider’s reported current household income and must keep the supporting documentation on file. Acceptable supporting documents that a sponsoring organization may use to verify the reported household income include, but are not limited to:

- A copy of at least two consecutive pay stubs for each working household member.
- Most recent income tax return.
- If self-employed: a copy of the most recent quarterly or year-to-date profit/loss statement.
- For income such as social security, disability, death benefits, pension, adoption assistance, unemployment: copy of benefits statement or letter from the pay source that states the amount, frequency and duration of the benefit.
- For each borrower who receives alimony or child support as qualifying income: copy of divorce or other court decree; or separation agreement or other written agreement filed with the court that states the amount and period of time over which it will be received

Once the home has been determined as tier I, all CACFP meals served to enrolled children are reimbursed at the tier I rate.

Income eligibility forms must be updated annually and may not be more than 12 months old. They are considered current and valid until the last day of the month in which the form was dated one year earlier. For example, if an income eligibility form is signed or approved on April 15<sup>th</sup>, it is considered valid until April 30<sup>th</sup> of the following year.

Sponsors have flexibility concerning the effective date of certification for Program benefits. Sponsors may either use the date the parent or guardian signed the income eligibility form or the date when the sponsor official signs the form certifying eligibility. However, if the date of the parent signature is not within the month of certification or the immediately preceding month, the effective date must be the date of certification. Sponsors must decide which date they will rely on as the effective date and apply this date to all income eligibility forms consistently. Sponsors may not switch back and forth between the two options. If the sponsor elects to use the date the parent or guardian signed the income eligibility form, and the form submitted is incomplete, it must be returned to the household for completion. If the form is resubmitted without an updated signature and date and, if the date of the parent signature is not within the month of certification or the immediately preceding month, the effective date must be the date of certification once the form is considered complete.

Example - if an income eligibility form is signed by a parent on February 23<sup>rd</sup>, but is not received and certified until March 2<sup>nd</sup>, the form is effective either on February 1<sup>st</sup> if the sponsoring organization has elected to use the date of the parent signature to determine eligibility or March 1<sup>st</sup> if the sponsor has elected to use the date the sponsor official approves and certifies the income eligibility forms. If the sponsor had not received and certified the income eligibility form until April 2<sup>nd</sup> (whether it was due to a delay in submitting or certifying the form), the effective date would automatically be April 1<sup>st</sup> regardless of which option the sponsor has elected to use to determine eligibility. This is because the date the parent signed the form is not within the month of certification (April) or the immediately preceding month (March). So the effective date must be the date of certification.

Households are not required to report changes in circumstances, such as an increase in income, a decrease in household size, or when the household is no longer certified eligible for benefits through the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF). Therefore, once a household is approved for CACFP benefits, they remain eligible for the full 12 months of the effective date.

### 11.3 Tier II

A family child care home that does not meet the criteria as a tier I home is considered a tier II home. A tier II home may still receive tier I rates for those children enrolled in care who are individually determined to be eligible for Tier I reimbursement. There are three levels of tier II homes. They are:

- Tier II Low – provider elects to receive a lower reimbursement for all children enrolled. Meal benefit income eligibility forms are not required for this classification type.
- Tier II High – provider elects to receive a higher reimbursement based on the enrolled child's household income or categorical eligibility as determined from a completed meal benefit income eligibility form.
- Tier II Mixed - provider elects to receive a mix of lower and higher reimbursement based on the enrolled child's household income or categorical eligibility as determined from a completed meal benefit income eligibility form.

#### 1. Income Eligibility

In order for a provider to receive tier II high rates for an enrolled child, the enrolled child's household must be income eligible. Tier II day care home providers have authority to distribute and collect the meal benefit income eligibility forms from households and send the forms to their sponsors. However, if tier II day care home providers wish to distribute and collect meal benefit income eligibility forms, the providers or the sponsors must ensure that each household knows:

- a. The household is not required to complete the income eligibility form in order for their children to participate in CACFP; and
- b. Households have the option, if they choose to complete the income eligibility form, of either:
  - Returning the form directly to the sponsor at the address indicated on the form; or
  - Returning the form to the provider with written consent allowing the provider to collect the form and transmit it to the sponsor on the household's behalf.

The ADE, or sponsors, may not require the tier II family child care home providers to collect and transmit household information to the sponsor.

Once all meal benefit income eligibility forms are received by the sponsoring organization, the sponsoring organization must take the information provided and compare the current household size and the current total household income as reported on the meal benefit income eligibility form to the income eligibility guidelines for the current fiscal year. Children of households who choose not to complete and submit a meal benefit income eligibility form will be automatically approved for tier II low rates of reimbursement for those children. To maintain confidentiality of households of the applicants, sponsoring organizations are prohibited from making tiering eligibility information available to their day care home provider unless the parent has signed a waiver allowing that information to be shared with their child(ren)'s provider. Sponsors may only inform tier II homes of the number of children determined by the sponsor as eligible for tier I benefits. The provider has

the option to decide if they would like to take advantage of this option, and must elect to do so in writing by completing a “Choice of Reimbursement” Form.

## 2. Categorical Eligibility

A provider may be eligible for tier II high rates for a child whose family is categorically eligible. A family is categorically eligible if they receive State benefits from programs such as SNAP, Food Distribution Program on Indian Reservation (FDPIR), or Temporary Assistance to Needy Families (TANF). Please refer to the current meal benefit income eligibility form for a complete listing of State programs meeting the Tier I reimbursement income qualifications. The ADE will notify sponsoring organizations of any changes to these categorically eligible programs.

Foster children are also categorically eligible for free meals. Some adopted children were first placed in families as foster children, parents may not be aware that, once the child is adopted, s/he is no longer categorically eligible for free meals as a foster child. Whether placed by the State child welfare agency or a court, in order for a child to be considered categorically eligible for free meals, the state must retain legal custody of the child.

**Note:** Sponsoring organizations may reimburse Mixed Tier II providers on the basis of actual meal counts, a claiming percentage, or a blended per meal rate. Claimed percentage rates and blended per-meal rates must be recalculated at least every six months; however, the ADE may require more frequent calculations if it has reason to believe that a home’s percentage of income-eligible children has change significantly or was incorrectly established in the previous calculation.

Sponsoring organizations must annually inform tier II day care home providers that the providers may ask for a reclassification to be considered when new census data become available each year and that reclassification may be made at any time for tier II homes. If a day care home is currently classified as tier II, but the CBG data demonstrates that the home is now tier I, then the sponsor may immediately change the status of that home to tier I and pay the higher rate of reimbursement for the current and subsequent months. A reclassification to tier I status is good for five years, at which time eligibility must be re-determined. When a home is reclassified, retroactive reimbursement at the higher tier I rates may not be provided for any previous month.

### Sources

- 7 CFR 226.15(f)
- 7 CFR 226.23(e), (g), and (h)
- HNS# 66-2013
- CACFP #10-14

## **CHAPTER 12**

# **SERIOUS DEFICIENCY, SUSPENSIONS, AND APPEALS**

## 12.1 Corrective Action

A day care home must take corrective action any time non-compliance with Program rules, regulations, policy, or agreements has occurred. Corrective action plans are necessary to ensure that providers understand what they are doing wrong and what they need to do for improvement. They document the provider's plan for improvement and provide an opportunity for the plan to be accepted by the sponsoring organization or for the sponsoring organization to request additional information or clarification. They also provide sufficient detail so that during future visits a determination can be made about whether the provider made and maintained the corrective action(s).

The CACFP regulations only require day care homes to submit written corrective action when the area of non-compliance rises to the level of serious deficiency. However, any area of non-compliance must be corrected and documented. For non-serious deficiency findings, the sponsor has the discretion as the method used to document correction of the finding. FNS *suggests* that a sponsor require the provider to submit written corrective action. Written responses provide documentation that the provider stated what will be done to correct the deficiency. This is particularly helpful when an appeal occurs. Requiring a written response may be a part of the sponsor's policies and procedures.

Some corrective actions can be taken on the spot (i.e. replacing an outlet cap), while the monitor is present; other corrective action measures may take a longer time to complete (i.e. recordkeeping errors). Day care home providers may have a maximum of 30 days to correct the deficiencies. The intent is to have the problem corrected within 30 days, not just provide a plan to correct them.

A written corrective action plan resulting from a serious deficiency must clearly address each of the identified problems and outline the steps the provider will take or has taken to fully and permanently correct each of the deficiencies. It is best to number the items on the corrective action plan with the corresponding finding on the review form or notice of serious deficiency. Corrective action plans must address the following questions:

- What are/were the areas of non-compliance? What steps or tasks will be/have been taken or performed to fully and permanently correct the problem?
- Who has/will address the serious deficiency and be responsible for making sure it is permanently corrected? Who has/will perform the steps or tasks?
- When was the problem corrected or when was the procedure for addressing the serious deficiency implemented? Provide a timeline for implementing the procedures (i.e. daily, weekly, monthly, or annually, and when it will begin).
- Where is/will the corrective action plan and supporting documentation being/be maintained?
- How has/will the provider ensure that the deficiency is corrected and continues to be implemented (method of implementation – handbook, training, etc.)?

Note: Questions that indicate foreshadowing or planning are meant for corrective action plans completed at the time of a visit. As mentioned above, providers have a maximum of 30 days to correct a deficiency.

Corrective action plans will generally include details of and documentation that the corrections have already been made. This might include, but is not limited to, copies of income eligibility forms, enrollment forms, menus, CN labels or recipes, attendance records, meal count forms, etc. If the corrective action plan and supporting documentation is acceptable, the sponsoring organization can approve it.

Corrective action plans must be completed by the provider and must include the provider's name, date of birth, signature, and date. If the provider operates with a business name, the corrective action plan must include both the provider's name and business name. Narratives and/or opinions regarding the deficiency(ies) should be omitted from corrective action responses. Examples of opinions are statements such as, "I think...", "I feel...", "I believe...", "I don't agree with...", "What really happened was..." Vague assurances of correction are not acceptable. Examples of vague assurances might be "I will do my paperwork every day," "I promise not to forget the meal pattern," "I bought a new computer," etc.

**12.2 Serious Deficiency Process**

A serious deficiency is when a sponsoring organization or day care home is non-compliant with one or more areas of the CACFP. The serious deficiency process offers a systematic way for sponsoring organizations to take actions allowing day care homes to correct problems and give them an opportunity for due process. If day care homes are unwilling or incapable of correcting serious problems, the serious deficiency process protects Program integrity by terminating and disqualifying those in noncompliance of Program requirements.

A day care home may be declared seriously deficient if the sponsoring organization finds Program violations or issues of non-compliance with CACFP requirements at any time during a day care home’s participation. If a sponsoring organization determines that a day care home has committed one or more serious deficiencies, it must be thoroughly documented. Once a provider has been determined seriously deficient, the serious deficiency process must be followed. The provider must be notified in writing and must be given an opportunity to take corrective action. A serious deficiency determination is not an appealable action. A provider is seriously deficient if he or she does one or more of the following:

- (i) Submission of false information on CACFP applications
- (ii) Submission of false claims for reimbursement
- (iii) Simultaneous participation under more than one sponsoring organization
- (iv) Non-compliance with the CACFP meal pattern
- (v) Failure to keep required records
- (vi) Conduct or conditions that threaten the safety of a child(ren) in care, or the public health or safety (imminent threat to health and safety)
- (vii) 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, anti-trust 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
- (viii) Failure to participate in training
- (ix) Any other circumstance related to non-performance under the sponsoring organization-day care home agreement, as specified by the sponsoring organization or the ADE

If a sponsor has determined that a provider has committed one or more of the above serious deficiencies it must:

- 1) Identify the serious deficiencies. The sponsor should use its discretion to determine whether the specific problem rises to the level of serious deficiency. Sponsors should consider, but not limit themselves to the following items:
  - The severity of the problem. Is the noncompliance on a minor or substantial scale? Are the violations indicative of a recurring problem at the day care home, or is the problem an isolated event? Even minor problems may be serious if

systemic. Some problems are serious even though they have occurred only once.

- The degree of responsibility attributable to the day care home. To the extent that evidence is available, can the sponsoring organization determine whether the violations were inadvertent errors of an otherwise responsible day care home provider? Is there evidence of negligence or a conscious indifference to regulatory requirements? Or, is there evidence of deception, or intentional noncompliance?
- The provider’s history of participation in the Program. Are problems of noncompliance frequently recurring at the same day care home?
- The nature of the requirements that relate to the problem. Are the day care home’s violations a clear violation of Program requirements? Has the provider failed to implement new CACFP policy appropriately?
- The degree to which the problem impacts Program integrity. Are the violations undermining the intent or purpose of the CACFP?

“Sponsor discretion” does not mean keeping providers in the Program at all costs. To appropriately use this discretion, monitors and sponsors must be able to distinguish between occasional errors and systemic errors, and between minor errors and major errors. It is recommended that the sponsor develop policy that assists staff in making these distinctions.

2) Issue a notice of serious deficiency. If the sponsor determines that the problem is a “serious deficiency”, it must send the provider a written notice of serious deficiency, with a copy to the ADE, within a reasonable amount of time as specified in its serious deficiency policy. If the serious deficiency constitutes an imminent threat to health or safety, the sponsor must follow the procedures in section 9.3 for suspension of participation for day care homes. The serious deficiency notice must name and be sent to all responsible individuals names and addresses (including business names when applicable) and must:

- Inform the provider that he or she is seriously deficient
- Describe the nature of the serious deficiency, with a specific regulatory citation to § 226.16(l)(2)(site i-ix listed above)
- Clearly describe the measurable corrective action the home must take
- Specify the deadline for corrective action. This must be as soon as possible, but may not exceed 30 days.
- State that the serious deficiency is not subject to appeal
- State that failure to fully and permanently correct the serious deficiency by the deadline will result in the proposed termination of the home’s agreement and the proposed disqualification of the home and its principals
- State that the home’s voluntary termination of the agreement after having been declared seriously deficient will result in the home’s termination and disqualification

The serious deficiency notice should be written in a way that clearly explains the sponsoring organization’s action to the hearing official in the event that the provider later appeals. It must include all findings identified during a review in some way. Findings that do not rise to the level of a serious deficiency must still be issued to a day care home. This can be done in the serious deficiency notice with clear language that the areas are not considered serious deficiencies but that they also must be corrected, or the other findings can be issued in a separate letter.

Once the sponsoring organization’s conditions for successful corrective action, including repayment of a debt, are established in a notice of serious deficiency, those conditions may not be changed.

- 3) Receive and assess the day care home provider’s written corrective action plan (CAP). Not all serious deficiencies take the same amount of time to correct; some might take several days to correct, and some may take only a few hours. When the deadline for completion of corrective action arrives, the sponsor must evaluate the corrective action plan and determine whether adequate internal controls have been put into place to fully and permanently correct the deficiencies. Corrective action responses must meet the minimum requirements outlined in section 12.1 of this chapter. A sponsoring organization should conduct a follow-up visit to ensure the provider has fully and permanently corrected all deficiencies. The follow-up visit should be conducted prior to approving a day care home’s corrective action plan or within a reasonable amount of time, as defined in the sponsoring organizations policy.
- 4) Issue a notice of temporary deferral of the serious deficiency if the CAP is adequate, or issue a notice of proposed termination and disqualification, including appeal procedures, if the CAP is not adequate (or if no CAP is received).
  - If the sponsoring organization has determined that the day care home has fully and permanently corrected the deficiencies, the sponsor must temporarily defer the serious deficiency in a letter to the provider, with a copy to the ADE, within a reasonable amount of time as specified in its serious deficiency policy and procedure. The notice should include a reminder that the corrective action must be permanent or the serious deficiency process will be reinstated starting with a notification of proposed termination and disqualification.
  - - (i) If time remains before the corrective action due date, a sponsor may allow a provider to resubmit their corrective action plan. If the sponsoring organization has determined that the day care home has **not** fully and permanently corrected the deficiencies, the sponsor must begin action to terminate the day care home’s agreement.
  - If the day care home failed to fully and permanently correct a serious deficiency the sponsoring organization must send the provider a written notice of proposed termination and disqualification for cause, with a copy to the ADE, within a reasonable amount of time as specified in its serious deficiency policy. The proposed termination and disqualification notice must name and be sent to all responsible individuals names and addresses (including business names when applicable) and must::

- (i) Inform the provider that the sponsor is proposing to terminate the home's agreement to participate in CACFP for cause, and to place the provider on the National Disqualified List (NDL)
  - (ii) Inform the provider of the procedures and timeframes for seeking an appeal;
  - (iii) Inform the provider that they will continue to receive payment for valid claims submitted until the expiration of the timeframe for filing an appeal, or until the resolution of the appeal
  - (iv) State that, if the provider does not appeal the proposed termination, the sponsor will terminate the home's agreement for cause and send the provider's name and other information to the State agency, for placement on the NDL
  - (v) State that the home's voluntary termination of the agreement after having received the notice of intent to terminate will still result in the home's formal termination and disqualification
  - (vi) Include a copy of the sponsor's appeal procedures
- The issuance of the notice of intent to terminate does not mean that the DCH should stop working on corrective action. In fact, the sponsoring organization can accept corrective action at any point up until the appeal deadline has passed or the DCH's agreement is terminated. If the DCH submits documented evidence which convinces the sponsoring organization that the DCH has fully and permanently corrected the serious deficiency, the sponsoring organization may accept the DCH's corrective action and temporarily defer the proposed termination. If the DCH later fails to maintain this corrective action, the sponsoring organization **must** immediately re-issue a notice of proposed termination and disqualification [7 CFR 226.16(l)(3)].
- 5) If requested, hold an appeal, of the proposed termination and disqualification. If the provider requests an appeal within the required timeframe, the sponsor must send the administrative review official all materials and documents necessary for the review official to make a determination within the reasonable timeframe specified in its serious deficiency policy.
- 6) If termination is upheld, issue a notice of final termination and disqualification or if termination is overturned, issue a notice of temporary deferral.
- If the review official rules in favor of the sponsor (or the provider does not request an appeal within the required timeframe), the sponsor must formally terminate the home's agreement for cause in a final termination letter. A copy of the letter must be sent to the ADE within 10 calendar days along with the provider's full legal name (including any other names previously used), business name when applicable, provider's mailing address, date of birth, and the full amount of any debt associated with the provider for inclusion on the NDL. The final date of termination for a provider who does not request an appeal is the deadline to file an appeal. If a provider requested an appeal, the final date of termination is the date the appeal official rendered a decision.
  - If the review official rules in favor of the provider, the sponsor must send the provider a notice temporarily deferring the proposed termination and

disqualification, with a copy of the letter to the ADE, within a reasonable timeframe as specified in its serious deficiency policy. The provider must still fully and permanently correct all deficiencies listed in the original serious deficiency notice.

- A copy of the hearing official's written decision must be provided to the ADE at the same time the deferral or final termination letter is sent.
- Once a provider is on the NDL, the provider is not eligible to participate in the CACFP in any State as a provider or responsible individual at an institution. Completing the entire process is important. If the sponsoring organization does not complete the serious deficiency process, the provider may simply move, reapply and be allowed to participate in the Program in another State because he or she has not been disqualified.

The sponsoring organization must continue to pay any 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 appeal. Reimbursable meals must be properly supported by required records.

All written notices pertaining to serious deficiencies must be sent by certified mail, return receipt (or an equivalent of), by fax, or by email. A copy of all notices must be sent to the ADE at the same time it is sent to the provider, including evidence of how the notices were sent. A notice is considered received by the provider five calendar days after being sent to the addressee's last known mailing address, fax number, or email address. Any timeframes associated with a given notice start with the earliest form of transmission. It is a best practice to obtain proof of the delivery of notice.

Sponsoring organizations must have a written process on how the serious deficiency process will be applied. The process must be applied consistently for all providers.

### 12.3 Suspension Process

An imminent threat to the health or safety of participants and engaging in activities that threaten the public health or safety constitute serious deficiencies; however, the sponsoring organization must use the procedures outlined in this section and send the day care home provider a notice of suspension of participation, serious deficiency, and proposed termination of the day care home's agreement.

Monitors must exercise judgment in making a determination of an imminent threat. Sponsoring organizations should establish written standards to help monitors measure the severity of a health or safety threat and procedures to follow when a determination of imminent threat has been made. Although monitors do not routinely assess health and safety issues during their monitoring visits, they must still be trained to recognize conditions that pose an imminent threat to the health or safety of the participants, like leaving a child unattended or aggressive animals in child care area(s). According to *Caring for Our Children*, circumstances that rise to the level of imminent threat include:

- Lost or missing child;
- Suspected maltreatment of a child;
- Suspected sexual, physical, or emotional abuse of staff, volunteers, or family members occurring while they are on the premises of the child care facility;
- Injuries to children requiring medical or dental care;
- Illness or injuries requiring hospitalization or emergency treatment;
- Mental health emergencies;
- Health and safety emergencies involving parents or guardians and visitors to the child care facility;
- Death of a child or staff member (including death that occurred outside of the child care hours that had resulted from serious illness or injury at the child care facility); or
- The presence of a threatening individual who attempts or succeeds in gaining entrance to the facility.

The provider's main priority is to protect the health and safety of the children in care. If State or local health or licensing officials have cited a day care home for serious health or safety violations, the sponsoring organization must immediately suspend the home's CACFP participation. The sponsor may not wait for formal action on behalf of the state or local health and/or licensing officials before taking any formal action to revoke the home's licensure or approval. This includes if a provider has their license or certification revoked. It is the sponsoring organization's responsibility to determine why the license or certification was revoked. If it was revoked for a health or safety violation, the provider must be suspended.

If the sponsoring organization determines there is an imminent threat to the health or safety of participants at a day care home (during a visit), or if the home has engaged in activities that threaten the public health or safety, the sponsoring organization must immediately notify the appropriate State or local licensing and health authorities and take action that is consistent with the recommendations and requirements of those authorities. The sponsoring organization must take immediate action to stop payments, suspend the day care home provider's CACFP participation, and declare the provider seriously deficient. The monitor must stay at the site until

the appropriate authorities have arrived or until the proper authorities indicate it is safe for the monitor to leave while they conduct further investigation. If the licensing agency cannot make an immediate onsite visit, the sponsoring organization must take action that is consistent with the recommendation and requirements of the licensing agency. All responses to imminent threats to health and safety of participants must be applied consistently and fairly.

If the sponsoring organization determines that there is an imminent threat to the health or safety of participants or if the home has engaged in activities that threaten public health or safety, it must:

- 1) Notify the day care home, in writing, that its participation has been suspended, that the day care home has been determined to be seriously deficient, and that the sponsoring organization proposes to terminate the day care home's agreement for cause, with a copy of the letter to the ADE, within a reasonable timeframe as specified in its suspension policy. The notice must:
  - Specify the serious deficiency(ies) found
  - Inform the day care home of its opportunity for an administrative review of the proposed termination. The appeal is of the proposed termination and disqualification, not the suspension for imminent threat to health and safety.
  - State that participation (including all Program payments) will remain suspended until the administrative review is concluded
  - Inform the day care home that if the administrative review official overturns the suspension, the day care home may claim reimbursement for eligible meals served during the suspension
  - Inform the day care home that termination of the day care home's agreement will result in the placement of the day care home on the NDL
  - State that if the day care home seeks to voluntarily terminate its agreement after receiving notice of proposed termination, the day care home will still be terminated for cause and disqualified
  - Include a copy of the sponsor's appeal procedures
  
- 2) If the provider requests an appeal within the required timeframe, the sponsor must send the administrative review official all materials and documents necessary for the review official to make a determination within a reasonable timeframe as specified in its suspension policy.
  - If the review official rules in favor of the provider, the sponsor must send the provider a notice withdrawing the proposed termination and disqualification, with a copy of the letter to the State agency, within a reasonable timeframe as specified in its suspension policy. The provider must still fully and permanently correct the deficiencies identified in the original notice.
  - If the review official rules in favor of the sponsor, the sponsor must immediately terminate the day care home's agreement and disqualify the day care home. A final termination letter must be sent to the provider, with a copy to the ADE, within a reasonable timeframe as specified in its suspension policy. The notice must inform the provider that they have been terminated from the Program and he or she will be added to the NDL. The sponsor must also provide the ADE with

the provider's full legal name (including any other names previously used) and other information needed for placing the provider on the NDL. The final date of termination is the date the hearing official rendered a decision.

- If the provider does not request an appeal when the opportunity to request one expires, the sponsor must immediately terminate the day care home's agreement and disqualify the day care home. A final termination letter must be sent to the provider, with a copy to the ADE, within a reasonable timeframe as specified in its suspension policy. The notice must inform the provider that they have been terminated from the Program and he or she will be added to the NDL. The sponsor must also provide the ADE with the provider's full legal name (including any other names previously used) and other information needed for placing the provider on the NDL. The final date of termination is the date the deadline for requesting an appeal expired.
- A copy of the hearing official's written decision must be provided to the ADE at the same time the temporary deferral or final termination letter is sent.

The sponsoring organization is prohibited from making any Program payments to a day care home that has been suspended until any administrative review of the proposed termination is completed. If the review official rules in favor of the provider, the sponsoring organization must reimburse the day care home for eligible meals served during the suspension period, as long as those meals were properly documented.

All written notices pertaining to suspensions must be sent by certified mail, return receipt (or an equivalent of), by fax, or by email. A copy of all notices must be sent to the ADE at the same time it is sent to the provider, including evidence of how the notices were sent. A notice is considered received by the provider five calendar days after being sent to the addressee's last known mailing address, fax number, or email address. Any timeframes associated with a given notice start with the earliest form of transmission. It is a best practice to get proof of the delivery of notice.

#### 12.4 Administrative Review (Appeal) Process for Providers

When a sponsoring organization proposes to terminate its Program agreement with a day care home for cause, due to one or more serious deficiencies or suspension, the day care home must be offered an opportunity for an administrative review of the proposed termination. The ADE has delegated the duty of offering an administrative review to sponsoring organizations.

The sponsoring organization must develop procedures for offering and providing these appeals. A copy of these procedures should be provided to each day care home provider during the pre-approval visit for a new provider and must be provided annually thereafter. They must also be provided whenever the ADE or sponsoring organization takes any action that is subject to an appeal or any other time upon request.

When a day care home requests an administrative review, the sponsoring organization must ensure its procedures meet the following minimum requirements:

- **Uniformity.** The same procedures must apply to all day care homes.
- **Representation.** The day care home may represent themselves, retain legal counsel, or may be represented by another person of their choosing. If legal counsel is retained, it must be disclosed when the administrative review is requested so that the sponsoring organization may act accordingly.
- **Review of record and opposition.** The day care home may review the entire record on which the decision was based and may refute the action in writing. The hearing official is not required to hold an in-person hearing. Both parties to the appeal must have the chance to review all of the documentation submitted to the hearing official.
- **Administrative review official.** The hearing official must be independent and impartial. This means that, although the hearing official may be an employee or board member of the sponsoring organization, he or she must not have been involved in the action that is the subject of the administrative review or have a direct personal or financial interest in the outcome of the appeal.

If the hearing official is an employee of the sponsor, he or she may not occupy a position in which he or she is potentially subject to undue influence from the individual responsible for the sponsoring organization's action, nor may he or she occupy a position in which he or she may exercise undue influence on the individual responsible for the action.

The provider must be permitted to contact the hearing official directly if he or she so desires.

- **Basis for decision.** The hearing official must make a determination solely based on the information provided by the sponsoring organization and the day care home and on Federal and State laws, regulations, polices, and procedures governing the Program. The hearing official may not extend a corrective action period or provide a probationary period for a provider to prove a deficiency was corrected.
- **Time for issuing a decision.** The hearing official must inform the sponsoring organization and the day care home of the administrative review's outcome within the period of time specified in the sponsoring organization's appeal procedures. This timeframe is an administrative requirement for the sponsoring organization and may not be used as a basis for overturning the termination if a decision is not made within the specified timeframe.

- Final decision. The determination made by the hearing official is the final administrative determination to be afforded to the day care home.

It is imperative that sponsoring organizations provide guidance to administrative review officials. Some ideas on how sponsoring organizations may strengthen their guidance materials for training purposes include:

- Provide administrative review officials with copies of the training materials issued by the sponsoring organization, the ADE, or the USDA (e.g., CACFP regulations, policy memoranda, handbooks, etc.);
- Offer to train administrative review officials on a quarterly, semi-annual, or annual basis (e.g., in-person trainings, webinars, etc.);
- Clarify that the role of the administrative review official is to: 1) assess the sponsoring organization's action to propose termination; 2) determine whether the actions taken by the sponsoring organization and providers followed Federal regulations, policies, and procedures governing the CACFP; and 3) base his/her decisions on the information presented by the sponsoring organization or providers and Federal and State laws regulations, policies, and procedures;
- Emphasize that the authority of the administrative review official does not include: 1) interpreting the intent or expanding the meaning of Federal regulations; 2) validating the serious deficiency determination; 3) verifying whether corrective actions submitted by the provider fully and permanently corrects Program violations; or 4) establishing settlement of demands for overpayments;
- Prepare explicit letters that fully explain the sponsoring organization's findings, including specific regulatory citations, and the types of technical assistance provided;
- Learn from the decisions issued by the administrative review official and consider making changes to written materials to address the concerns raised by the administrative review official; and
- Review the decisions that uphold actions taken by the sponsoring organization and consider strengthening written materials to highlight approaches supported by administrative review officials.

## 12.5 Administrative Review Process for Sponsoring Organizations

The following administrative review procedures include notification, request, and procedure for a hearing in accordance with federal regulation 7 CFR § 226.6(k). A copy of these procedures is provided to new sponsoring organizations, to all sponsoring organizations annually, with any written notification of an appealable action, upon request, and is also available on our website.

### A. PURPOSE

The CACFP allows an Institution, responsible principals, and responsible individuals participating in the CACFP an administrative review. This review may be initiated when the Arizona Department of Education (ADE):

1. Denies the Institution's application for program participation. [226.6(k)(2)(i)].
2. Denies the sponsor's application for program participation submitted on behalf of a facility. [226.6(k)(2)(ii)].
3. Proposes termination of the Institution's agreement. [226.6(k)(2)(iii)].
4. Proposes disqualification of a responsible principal or responsible individual. [226.6(k)(2)(iv)].
5. Suspends the Institution's agreement. [226.6(k)(2)(v)].
6. Denies the Institution's application for start-up or expansion funds. [226.6(k)(2)(vi)].
7. Denies the Institution's request for an advance payment. [226.6(k)(2)(vii)].
8. Demands recovery of all or part of an advance in excess of the claim for the applicable period. [226.6(k)(2)(viii)].
9. Denies all or part of the Institution's claim for reimbursement, provided the Institution has submitted its claim to ADE no later than 60 days after the last day of the claim month. [226.6(k)(2)(ix)].
10. Denies the forwarding of an exception request to the U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS), for a late claim or an upward adjustment of its claim. [226.6(k)(2)(x)].
11. Demands that the Institution remit an overpayment. [226.6(k)(2)(xi)].

In addition, a participating Institution, responsible principals, and responsible individuals may request a review for any other final action taken by ADE that affects the Institution, responsible principals, or responsible individuals' program participation or the Institution's claim for reimbursement. [226.6(k)(2)(xii)].

However, ADE is prohibited from allowing an administrative review on the following actions:

1. FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim. [226.6(k)((3)(i)].

2. Determination of serious deficiency. [226.6(k)(3)(ii); 226.6(c)].
3. Disqualification and placement on ADE list and National disqualified list. [226.6(k)(3)(iii)].
4. Termination of Institution’s agreement. [226.6(k)(3)(iv)].

**B. PROCEDURE**

Notification, request, and procedure for hearing:

1. Whenever ADE takes action that is subject to administrative review as described in (A) above, ADE will notify the Institution, responsible principals, responsible individuals, Executive Director and Chairman of the Board of Directors in writing of the action and the basis for the action, and advise the Institution, responsible principals, and responsible individuals of the right to an administrative review. [226.6(k)(5)(i)].
2. A written request for administrative review must be submitted to ADE no later than 15 calendar days from the date the Institution, responsible principals, or responsible individuals receive ADE’s notice of action taken. The original and one copy of the review request must be sent to:
 

Ms. Mary Szafranski, Associate Superintendent  
 Health and Nutrition Services  
 Arizona Department of Education  
 1535 West Jefferson Street, Bin 7  
 Phoenix, Arizona 85007
3. ADE shall acknowledge receipt of the request for review within 10 calendar days after receipt. [226.6(k)(5)(ii)].
4. The Institution, responsible principals, and responsible individuals may retain legal counsel or may be represented by another person. [226.6(k)(5)(iii)].
5. Any information on which ADE action was based will be available to the Institution, responsible principals, and responsible individuals for inspection from the date of receipt of the request for review. [226.6(k)(5)(iv)].
6. The Institution, responsible principals, and responsible individuals may refute the findings in the notice of action in person or by submitting written documentation to the administrative review official. In order to be considered, written documentation must be submitted not later than 30 days after receipt by the Institution, responsible principals, and responsible individuals of the notice of action. Written documentation must clearly identify the ADE action being reviewed and must include a photocopy of the notice of action issued by ADE. [226.6(k)(5)(v)].
7. The administrative review official will hold a hearing in addition to, or instead of, a review of written information only if the Institution, responsible principals, or responsible individuals request a hearing in the written request for administrative review. Failure to appear at a scheduled hearing will constitute the Institution’s, responsible principals or responsible individuals or their representatives, waiver of

- the right to a personal appearance before the administrative review official, unless the administrative review official agrees to reschedule the hearing. A representative of ADE must be allowed to attend the hearing to respond to the testimony presented by the Institution, responsible principals, and responsible individuals and to answer questions posed by the administrative review official. [226.6(k)(5)(vi)].
8. If a hearing is requested, the Institution, responsible principals, and responsible individuals and ADE must be provided with at least 10 calendar days advance notice of the time and place of the hearing. [226.6(k)(5)(vi)].
  9. The administrative review official shall be independent and impartial, but may be an employee of ADE, although he or she must not have been involved in the action that is the subject of the administrative review or have a direct personal or financial interest in the outcome of the administrative review. The Institution, responsible principals, and responsible individuals are permitted to contact the administrative official directly, if so desired. [226.6(k)(5)(vii)].
  10. The administrative review official must make a determination based solely on information provided by ADE, the Institution, responsible principals, responsible individuals, and based on federal and state laws, regulations, policies, and procedures governing the program. [226.6(k)(5)(viii)].
  11. Within 60 days from the date ADE receives a request for an administrative review, the administrative review official must inform ADE and the Institution, responsible principals, responsible individuals, Executive Director and Chairman of the Board of Directors of the administrative review's outcome. This timeframe may not be used as a basis for overturning ADE's action if a decision is not made within the specified time. [226.6(k)(5)(ix)].
  12. The determination by the state review official is the final administrative determination to be afforded the Institution, responsible principals, and responsible individuals. [226.6(k)(5)(x)].
  13. ADE's action will remain in effect during the administrative review. [226.6(k)(10)].

Federal Regulations provide for an abbreviated administrative review under certain circumstances. 7 CFR § 226.6(k)(9). ADE must limit the administrative review to a review of written submissions concerning the accuracy of ADE's determination if the application was denied or ADE proposes to terminate the institution's agreement because:

1. The information submitted on the application was false.
2. The institution, one of its sponsored facility, or one of the principals of the institution or its facilities, is on the national disqualified list.
3. The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities, is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program.
4. The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities, has been convicted for any activity that indicates a lack of business integrity.

The above administrative review procedures are condensed from 7 CFR § 226.6(k). The Code of Federal Regulations should be consulted for additional rules regarding the review process.

If you have any questions regarding these procedures, please contact Health and Nutrition Services at 602.542.8700.

### 12.6 Drop Reports

Sponsoring organizations must submit a drop report to the ADE by the last Friday of each month. The drop report includes the provider's name, address, email address, primary language (E=English S=Spanish), date of termination, and the reason for termination. Reasons for termination are:

- For cause,
- For convenience, or
- At the provider's request.

If a provider does not have day care children or does not submit a claim for more than 90 days, the sponsor should terminate its agreement with the provider, unless the sponsor has valid information that indicates the provider has active plans to resume services within a reasonable time (not to exceed an additional 90 days). An example of this would be a mom on extended maternity leave, a short or long term disability, or a planned extended absence.

When a provider goes on hold (i.e. moving, medical reasons), the sponsoring organization must notify the ADE with the effective dates. If the sponsoring organization does not have an exact end date, the ADE must be notified as soon as it knows when the provider will be reinstated, unless the sponsor is submitting a new application on behalf of the provider.

### 12.7 Dropped for Cause

A sponsoring organization must drop a provider for cause when a provider is non-compliant with Program rules and regulations, has failed to fulfill its agreement with the sponsoring organization, or for health and safety issues. In these cases, the serious deficiency or suspension process should be followed. A provider must be dropped for cause if the provider has failed to fully and permanently correct a serious deficiency or did not request or lost an appeal for suspension and proposed termination and qualification. A provider dropped for these reasons will be placed on the NDL.

A provider may also be dropped for cause for reasons un-related to Program performance or health and safety issues. For example, a provider must be dropped for cause if a fingerprint has been revoked. A provider must also be dropped for cause if their DHS license, DES certification, or Military or Tribal certification was revoked for reasons unrelated to the health and safety issues. It is the sponsoring organization's responsibility to determine why the license or certification was revoked.

If a provider is dropped for cause, it is a best practice to include a note on the drop report indicating if it was due to Program performance or health and safety violations. If it is not specified on the drop, the ADE will assume the provider was dropped for cause for Program performance or health and safety violations.

If a provider is dropped for cause, ADE will need to verify:

- That the sponsoring organization has correctly followed the serious deficiency or suspension process, when applicable,
- That ADE has received all required documentation from the sponsoring organization to submit a request to USDA for the provider to be added to the NDL, and
- If necessary, request documentation showing a provider was not reimbursed for ineligible meals.

### 12.8 Dropped for Convenience

A sponsoring organization may drop a home for convenience at any time for the following reasons:

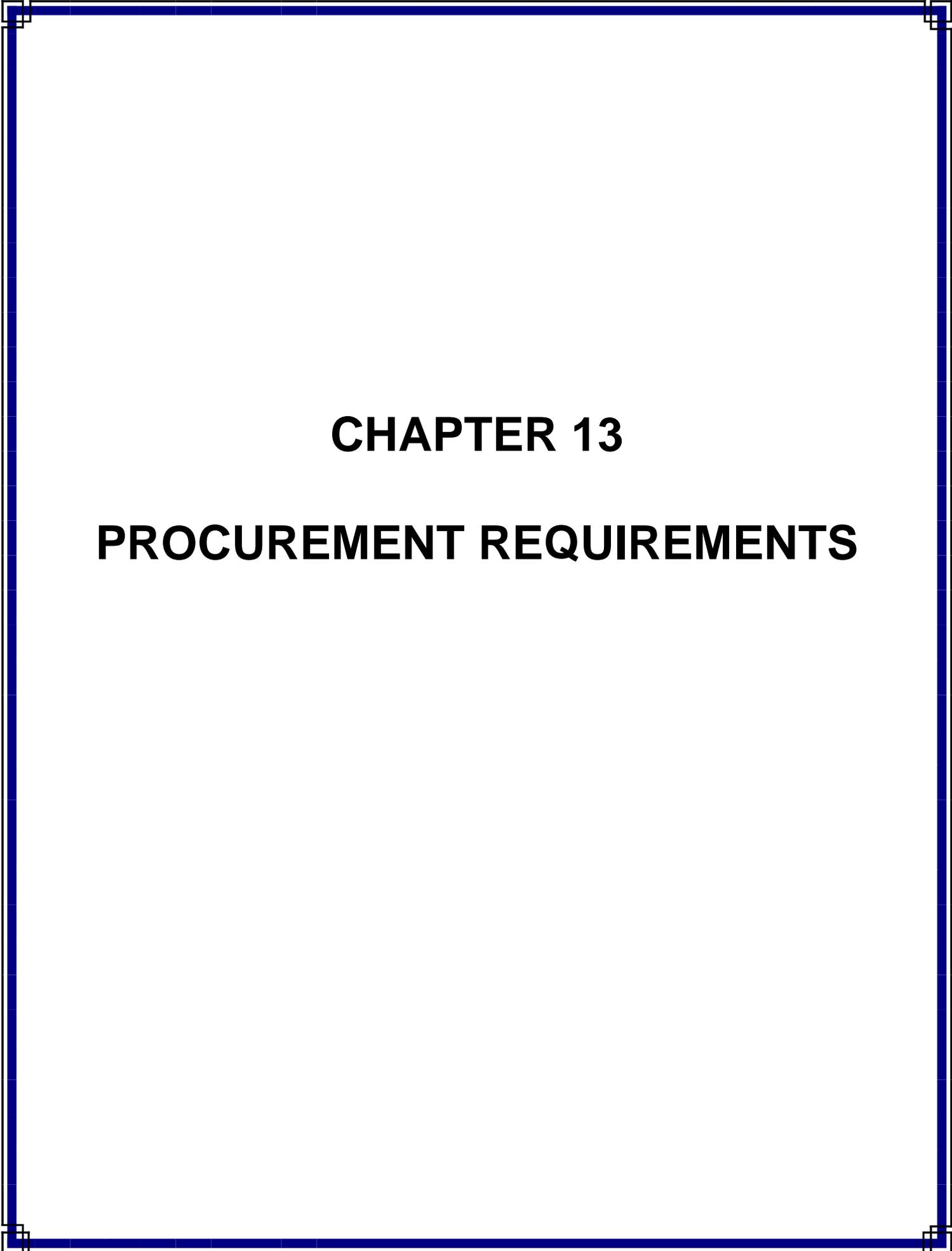
- At the provider's request,
- A provider has been inactive for more than 90 days,
- Sponsoring organization's financial and geographic considerations,
- The sponsoring organization cannot meet the needs of the provider,
- Any other reasons unrelated to Program performance or health and safety violations.

A provider may request to terminate its contract with the sponsoring organization for many reasons. Some examples are health or medical reasons, a new career, moving, no longer has day care children, or wishes to transfer to another sponsoring organization.

A provider dropped for convenience may subsequently enroll with another sponsoring organization. Dropping a provider for convenience may not be used to get rid of poor performers. A provider who has been terminated and disqualified may not be dropped for convenience. A sponsoring organization may be deemed seriously deficient if it misuses this option for dropping a provider.

#### **Sources**

- 7 CFR 226.6(k) and (l)
- 7 CFR 226.16(l)(2)(vi)
- 7 CFR 226.16(l)(4)
- USDA Family Day Care Home Monitoring Handbook
- USDA Serious Deficiency, Suspension, & Appeals for State Agencies & Sponsoring Organizations Handbook\
- CACFP 13-2013
- American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education. 2011. Caring for Our Children: National health and safety performance standards; Guidelines for early care and education programs. 3<sup>rd</sup> edition. Elk Grove Village, IL: American Academy of Pediatrics; Washington, DC: American Public Health Association. Also available at <http://nrckids.org>.



**CHAPTER 13**

**PROCUREMENT REQUIREMENTS**

### 13.1 Procurement Standards and Guidelines

Child and Adult Care Food Program (CACFP) regulations require that all sponsors have standards that are followed when foods, supplies, equipment, and other goods and services are purchased.

All non-governmental, non-profit institutions participating in the CACFP must comply with procurement requirements as stated in 7 CFR 3019. These guidelines specify, among other provisions, that the small purchase threshold be set at \$150,000. This means for any purchase that exceeds the small purchase threshold of \$150,000, a formal solicitation must be conducted. Please note that an institution may have regulations establishing a small purchase threshold of less than \$150,000 in which case a formal solicitation would be required.

All public institutions participating in the CACFP must comply with procurement requirements as stated in applicable State or local laws and as stated in 7 CFR part 3016. These guidelines specify, among other provisions, that the small purchase threshold be set at \$150,000. This means for any purchase that exceeds the small purchase threshold of \$150,000, a formal solicitation must be conducted. Please note that it is very likely that State or local laws for public institutions have established a small purchase threshold of less than \$150,000 in which case a formal solicitation would be required. Please ensure that you are in compliance with all State or local procurement guidelines.

**Note: Unless otherwise specified by State or local procurement guidelines, the best practice is to obtain written price quotes from three (3) or more vendors for purchases that do not exceed the small purchase threshold.**

These standards are furnished to ensure that materials and services are obtained efficiently and economically. All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition.

- Institutions shall maintain a written code of standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Program payments. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
  1. The employee, officer or agent;
  2. Any member of his immediate family;
  3. His or her partner; or
  4. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The institution's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Institutions may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. Misuse of funds is punishable under the laws of Arizona.

- The institution shall establish procurement procedures which provide that proposed procurement actions shall be reviewed by institution officials to avoid the purchase of unnecessary or duplicative items. Where appropriate, an analysis shall be made on lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical.
- Affirmative steps shall be taken to assure that small and minority businesses are utilized when possible. Affirmative steps shall include the following:
  1. Including qualified small and minority businesses on solicitation lists;
  2. Assuring that small and minority businesses are solicited whenever they are potential sources;
  3. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation;
  4. Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority businesses;
  5. Using the services and assistance of the Small Business Administration and the Minority Business Enterprise of the Department of Commerce as required;
  6. If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in paragraphs 1 through 5 of this section; and
  7. Taking similar appropriate affirmative action in support of women's business enterprises.
- Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to:
  1. Placing unreasonable requirements on firms in order for them to qualify to do business;
  2. Non-competitive practices between firms;
  3. Institutional conflicts of interest; and
  4. Unnecessary experience and bonding requirements.
- The institution shall have written selection procedures which shall provide, as a minimum, the following procedural requirements:
  1. Solicitations of offers, whether by competitive sealed bids or competitive negotiation, shall:
    - a. Incorporate a clear and accurate description of the technical requirements for the material, product, or services to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make clear and accurate description

of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand, which must be met by offerors, shall be clearly stated.

- b. Clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.
2. Awards shall be made only to the lowest responsible and responsive bidder that possesses the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- Program procurements shall be made by one of the following methods:
    1. Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for the procurement of services, supplies or other property, costing in the aggregate not more than the small purchase threshold stated above. Institutions shall comply with State or local small purchase dollar limits under the small purchase threshold. If small purchase procedures are used for a procurement under the Program, price or rate quotation shall be obtained from an adequate number of qualified sources; or
    2. In competitive sealed bids (formal advertising), sealed bids will be publicly solicited and a firm-fixed price contract (lump sum or unit price) will be awarded to the responsible and responsive bidder whose bid, confirming with all the material terms and conditions and evaluation criteria set forth in the invitation for bids, is the lowest price.
      - a. In order for formal advertising to be feasible, appropriate conditions must be present, including as a minimum, the following:
        - A complete, adequate and realistic specification or purchase description is made available.
        - Two or more responsible suppliers who are willing and able to compete effectively for the institution’s business.
        - The procurement lends itself to a firm-fixed price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.
      - b. If formal advertising is used for procurement under the Program, the following requirements shall apply:
        - A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.
        - The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

- All bids shall be opened publicly at the time and place stated in the invitation for bids.
- A firm-fixed price contract award shall be made by written notice to the responsible and responsive bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the grantee indicates that such discounts are generally taken.
- Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program. The reasons for the rejection shall be made part of the procurement file.

Note: For purchases over \$25,000 the institution must verify the status of the vendor or contractor regarding debarment and suspension. This can be verified at:

<https://spo.az.gov/administration-policy/state-procurement-resource/suspended-debarred-firms>.

- c. In competitive discussions, proposals will be requested from a number of sources and the Request for Proposal is publicized. Discussions may be conducted with more than one of the vendors submitting offers, and either a fixed-price or cost reimbursable type contract is awarded, as appropriate. If competitive discussions are used for a procurement under a grant, the following requirements shall apply:
  - Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.
  - The Request for Proposal shall identify all significant evaluation factors, including price or cost where required and shall be listed in the relative order of importance. No other factors or criteria may be used in the evaluation unless set forth in the RFP.
  - The institution shall provide mechanisms for technical evaluation of the proposal received, determinations of responsible offers for the purpose of written or oral discussions, and selection for contract award.
  - The institution shall award a contract to the offeror whose proposal is determined in writing to be the most advantageous to the procuring party based on the factors set forth in the request for proposals. Unsuccessful offerors may be notified in writing of the award.

Note: For purchases over \$25,000 the institution must verify the status of the vendor or contractor regarding debarment and suspension. This can be verified at:

<https://spo.az.gov/administration-policy/state-procurement-resource/suspended-debarred-firms>.

- d. Noncompetitive procurement is solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive procurement will be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising), or competitive discussion procedures. It is important that proper documentation and justification be included in the procurement file. Circumstances under which a contract may be awarded by noncompetitive procurement are limited to the following:
- The item is available only from a single source.
  - Public emergency exists which does not permit the delay which would occur if formal procurement procedures were used.
  - FNS authorized noncompetitive negotiation.
  - After solicitation of a number of sources, competition is determined inadequate.
- The cost plus a percentage of cost method of contracting shall not be used. Instructions shall perform some form of cost or price analysis in connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts under the Program shall be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.
  - Institutions shall maintain records sufficient to detail the significant history of procurement. These records shall include, but are not necessarily limited to information pertinent to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.
  - In addition to provisions defining a sound and complete procurement contract, institutions shall include the following contract provisions or conditions in all procurement contracts and subcontracts as required by the provision, Federal Law or FNS:
    1. Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate;
    2. All contracts in excess of \$10,000 shall contain suitable provisions for termination. Such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor;
    3. All contracts awarded in excess of \$10,000 by institutions and their contractors shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR part 60);
    4. Where applicable, all contracts awarded by institutions in excess of \$2,500 which involve the employment of mechanics or laborers shall include a provision for compliance with section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 through 330) as supplemented by Department of Labor regulations (29 CFR part 5). Under section 103 of the Act, each contractor shall

be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard work day or week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence;

5. The contract shall include notice of USDA requirements and regulations pertaining to reporting and patent rights under any contract involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of USDA requirements and regulations pertaining to copyrights and rights in data. These requirements are found in §3015.175. All negotiated contracts (except those awarded by small purchases procedures) awarded by institutions shall include a provision to the effect that the institution, FNS, the Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions. Institutions shall require contractors to maintain all required records for five (5) years after institutions make final payment and all other pending matters are closed;
  6. Contracts and subcontracts of amounts in excess of \$100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1837(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), which prohibit the use under nonexempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to FNS and to the U.S. EPA Assistant Administrator for Enforcement (EN-329); and
  7. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy efficiency conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).
- Institutions shall maintain a contract administration system insuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
  - Institutions participating in the Program may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the institution making the purchase has the discretion to determine the local area to which the geographic preference option will be applied.
    1. For the purpose of applying the optional geographic preference, “unprocessed locally grown or locally raised agricultural products” means only those agricultural products that retain their inherent character. The effects of the following food

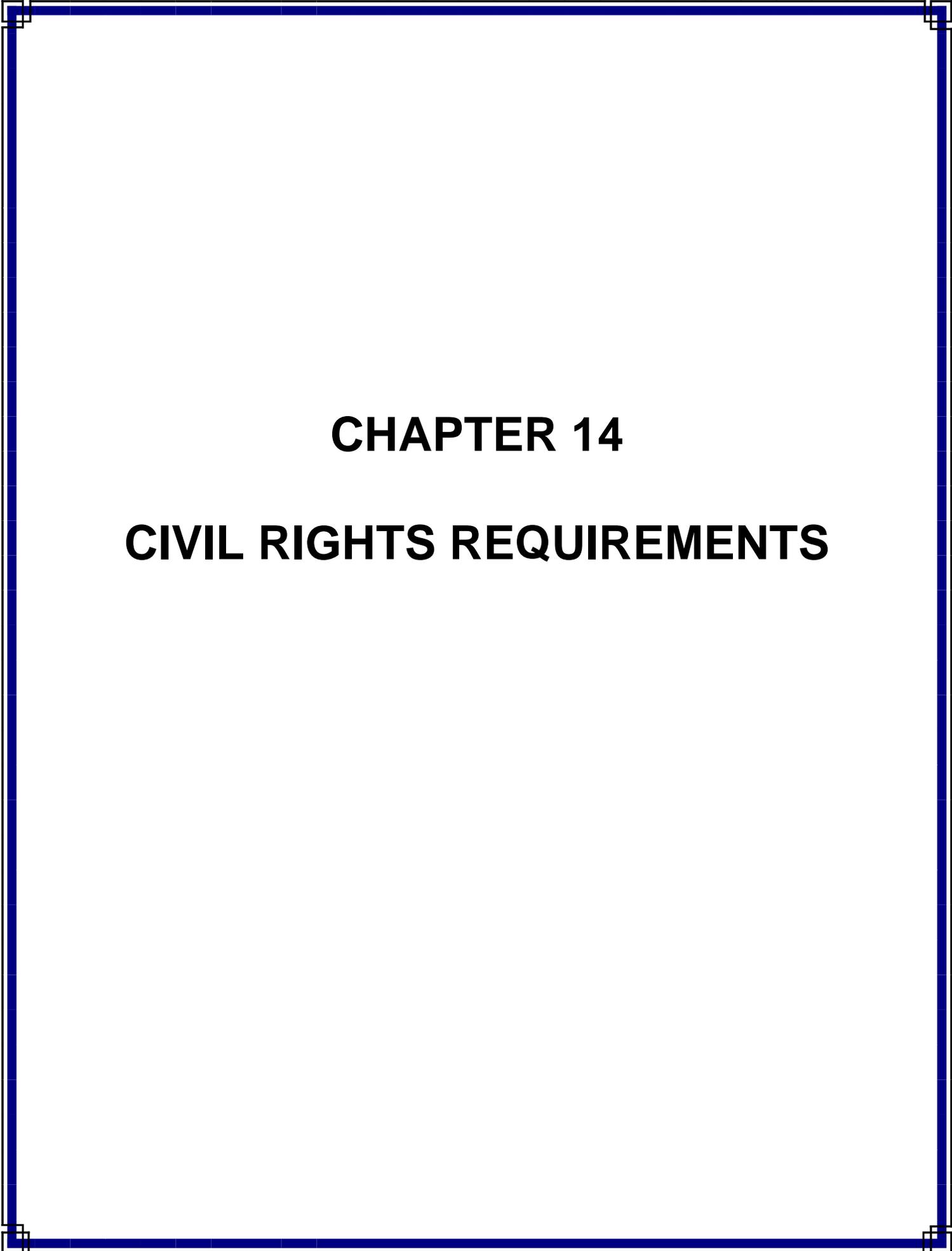
handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

- Awarding of contracts under USDA entitlement programs to firms “that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals” for such procurements are not allowed. The purpose of this regulation is to “ensure objective contractor performance and eliminate unfair competitive advantage.” This ruling does not prohibit consultations between program operators and industry. (3016.60 and 3019)

The procurement standards listed do not relieve the sponsoring organization of any contractual responsibilities under its contracts. The sponsor is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of the Program. These include, but are not limited to: source evaluation, protests of award, disputes, and claims. Violations of the law shall be referred to the local, State, or Federal authority having proper jurisdiction.

#### **Sources**

- 7 CFR 226.22



**CHAPTER 14**

**CIVIL RIGHTS REQUIREMENTS**

**14.1 General Information**

Discrimination is the act of distinguishing one person or group of persons from other, either intentionally, by neglect, or by the effect of actions or lack of actions based on their protected classes. A protected class is any person or group of people who have characteristics for which discrimination is prohibited based on a law, regulation, or executive order (i.e. a person with a disability).

Discrimination occurs when an individual or group is denied benefits or services that others receive, delayed receiving benefits or services that others receive, treated differently than others to their disadvantage, given disparate treatment, something which does not seem discriminatory, but has a discriminatory impact in practice.

Some examples of discrimination are:

- Refusal of a child's enrollment based on disability, race, gender, age, etc.
- Failure to provide reasonable accommodations to disabled individuals.
- Selectively distributing applications and income forms.
- Failure to provide the same eligibility criteria to all participants.
- Failure to provide foreign language materials regarding CACFP.

All children who attend a day care must be provided equal access to the benefits of the CACFP. Infants must be offered infant formula and food at the day care home, and parents cannot be asked or required to supply these items. To withhold the program from any eligible age group is age discrimination.

## 14.2 Compliance

Sponsoring organizations must comply with the requirements of Title VI of the Civil Rights Act of 1964; American with Disabilities Act (ADA); Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975.

Civil rights compliance is the responsibility of the USDA and the ADE. Prior to the approval for Federal financial assistance, the ADE is required to verify compliance with civil rights requirements. Note: this applies to new sponsors only. The Pre-Award Compliance Review form must be completed prior to approval of new sponsors and annually for renewing sponsors.

In addition, the ADE must conduct routine compliance reviews for current participants to ensure continued compliance with civil rights regulations. The ADE monitors this through the application process, during provider visits, and as part of administrative reviews.

Sponsors are also required to monitor and review civil rights compliance with their providers. Sponsoring organizations must also conduct routine compliance reviews for current participants to ensure continued compliance with civil rights regulations.

**14.3 Notification Requirements**

Each sponsoring organization that distributes program benefits and services must take specific action to inform applicants, participants, and potentially eligible persons of their program rights and responsibilities and the steps necessary for participation. The goal is to reach as many potential children as possible and ensure program access. Sponsoring organizations should pay attention to under-represented groups to ensure equal access.

Applicants and participants must be advised at the service delivery point of their right to file a complaint, how to file a complaint, and the complaint procedures.

All information materials and resources, including web sites, brochures, advertisements, menus, etc., used by sponsors or providers must contain the approved nondiscrimination statement. A nondiscrimination statement is not required to be imprinted on items such as cups, buttons, magnets, and pens that identify the program, when the size or configuration makes it impractical. In addition, recognizing that radio and television public service announcements are generally short in duration, the nondiscrimination statement does not have to be read in its entirety. The approved short version is sufficient to meet the nondiscrimination requirement. When using graphics in materials and resources, be sure to reflect diversity and inclusion.

The “And Justice for All” poster must be displayed in a public area of the sponsor’s office that is visible to program recipients, their families, personnel, visitors and others. The poster must measure 11” x 17”.

#### 14.4 Data Collection

Sponsoring organizations are required to determine the number of potential eligible children by racial and ethnic category for each area served by the organization on an annual basis. This information can be obtained from the United States Census Bureau Community Facts website at [http://factfinder2.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml](http://factfinder2.census.gov/faces/nav/jsf/pages/community_facts.xhtml). When visiting this page, enter the county where the provider is located in the “Enter State, County, City, Town or Zip Code” box then click the “Go” button. After the page is refreshed, click on the “Race and Hispanic or Latino Origin” link under 2010 Census. A Civil Rights Data Collection form must be completed, at a minimum, for each county served. Sponsoring organizations are welcome to break it down by town/city or zip code, if preferred.

Racial and ethnic data can be used to determine how effectively your program is reaching potentially eligible children and where outreach may be needed. For data-collecting purposes, a beneficiary may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. Racial and ethnic data can be obtained in three ways:

- 1) Self-reported (preferred method) – household applications and enrollment forms that are completed each year and submitted to the sponsoring organization have a section for the household to identify their racial and ethnic data; however, households are not required to complete this. Parents/guardian of beneficiaries may be asked to identify the racial or ethnic group of the participant only after it has been explained, and they understand, that the collection of this information is strictly for statistical reporting requirements and has no effect on the determination of their eligibility to receive benefits under the program. Data collectors may not second guess, change, or challenge a self-declaration of ethnicity/race made by a participant unless such declarations are blatantly false.
- 2) Visual identification by the provider
- 3) Personal knowledge, records or other documentation your agency possesses that identifies household racial/ethnic data

Such collection systems must ensure that:

- The actual beneficiary data will be maintained on file at the institution and retained for 5 years; and
- The data will be maintained under safeguards, restricting access of records only to authorized personnel.

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### 14.5 Complaints Procedures

Sponsors are required to have complaint policies and procedures established. Any person or representative alleging discrimination based on a prohibited basis has the right to file a complaint within 180 days of the alleged discriminatory action. The protected basis applicable to the Child and Adult Care Food Program are race, color, national origin, sex, age, and disability.

Complaints can be written or verbal. Anonymous complaints should be handled as any other complaint. All verbal or written complaints must be forwarded to the ADE or Civil Rights Division of USDA Food and Nutrition Service. All complaints should be logged and kept in a central location. The complainant and the entity that the complaint is filed against will be encouraged to resolve the issue at the lowest possible level, and as expeditiously as possible.

Complaints of discrimination should contain the following information:

- Name, address and telephone and any other means to contact complainant
- The specific location and name of the entity delivering benefits
- Nature of the incident or action that led the complainant to feel that discrimination was a factor, and an example of the method of administration which is having a disparate effect on the public, potential eligible persons, applicants, or participants
- Basis on which the complainant feels that discrimination occurred. Remember, the protected bases applicable to the CACFP are race, color, national origin, sex, age, and disability.
- Names, phone numbers, titles, and business or personal address of person(s) who may have knowledge of the alleged discriminatory action
- The date(s) the alleged discriminatory actions occurred or, if continuing, the duration of such action.

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## 14.6 Training Requirements

Civil rights training is required so individuals involved in all levels of administration of programs that receive Federal financial assistance understand civil rights related laws, regulations, procedures, and directives.

All annual provider trainings must include civil rights as a topic. Sponsor staff that interacts with program applicants or participants and those persons who supervise program staff must also be provided with civil rights training on an annual basis. Specific subject matter must include, but not be limited to:

- Collection and use of data,
- Effective public notification systems,
- Complaint procedures,
- Compliance review techniques,
- Resolution of noncompliance,
- Requirements for reasonable accommodation of persons with disabilities,
- Requirements for language assistance,
- Conflict resolution, and
- Customer service.

ADE has posted some civil rights activities that may be useful for your civil rights trainings. To obtain these activities, go to: <http://www.azed.gov/health-nutrition/civil-rights/>.

Sponsoring organizations must maintain documentation of civil rights trainings to providers and staff. An agenda, copy of training materials, and attendance logs, including training date, location, and signature of those who attend must be maintained on file for reviews or audits.

## 14.7 Non-Discrimination Statement

There are two approved non-discrimination statements that must be used on all materials provided to the public. The size of the wording for the non-discrimination statement must be consistent with the entire document.

The long version must be utilized whenever possible (i.e. websites). The approved long version is:

*The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)*

*If you wish to file a Civil Rights program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866)632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).*

*Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).*

*USDA is an equal opportunity provider and employer.*

The shorter version may be used if the material is too small to permit the long statement. However, the print size should be no smaller than the text of the document. Examples include: letters, memos, notices, menus, internet, public service announcements, television spots, or advertisements, recruitment and outreach correspondence. The approved short version is:

*This institution is an equal opportunity provider and employer.*

**14.8 Religious Organizations**

Federal requirements prohibits discrimination for or against an organization on the basis of religion, religious belief, or religious character in the administration or distribution of Federal funds.

Religious organizations may continue to carry out their mission, provided that direct USDA funds do not support any inherently religious activities such as worship, religious instruction, or proselytization. Sponsors and providers can provide USDA funded services without removing religious art, icons, scriptures, or other religious symbols.

No organization that receives direct financial assistance from the USDA can discriminate against a program beneficiary, or prospective beneficiary, on the basis of religion or religious belief. For example, a short prayer before a meal is OK only if the meal giver does not require participation in the prayer (or other religious practices) as a condition for receiving the meal.

### 14.9 Limited English Proficiency

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or "LEP." These individuals may be entitled language assistance with respect to a particular type or service, benefit, or encounter. Sponsors have a responsibility to take reasonable steps to ensure meaningful access to their programs and activities by persons with LEP.

One factor in determining what language services need to be provided is the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population. Ordinarily, persons "eligible to be served, or likely to be directly affected, by" a recipient's program or activity are those who are served or encountered in the eligible service population. The greater the number or proportion of these LEP persons, the more likely language services are needed. An example would be if Spanish is the primary language of most of the participants in a particular neighborhood. Community agencies, school systems, religious organizations, legal aid entities, and others can often assist in identifying populations for whom outreach is needed and who would benefit from the recipients' programs and activities where language services are provided.

Sponsors should assess, as accurately as possible, the frequency with which they have or should have contact with an LEP individual from different language groups seeking assistance. The more frequent the contact with a particular language group, the more likely that the enhanced language services in that language are needed. The previous example regarding the neighborhood where the majority of participants' speak Spanish could also apply to this.

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed. An example would be the Meal Benefit Income Eligibility Forms or the annual enrollment forms.

#### **Sources**

- Civil Rights Instruction 113-1
- <http://www.fns.usda.gov/civil-rights>