

INTERIM REGULATION





Training Objectives

- To become familiar with the USDA Interim Regulation as it applies to Day Care Home Sponsors of the Child and Adult Care Food Program
- To guide Sponsor's into compliance with complete implementation no later than October 1, 2003

NOT

- To debate or argue these provisions to be implemented



State of Arizona
Department of Education

Jaime A. Molera
Superintendent of
Public Instruction

Memorandum

September 23, 2002
CACFP 85-02

CERTIFIED MAIL

To: Family Child Care Home Sponsors' Association
From: Melissa Steinle, Team Leader, CACFP
Subject: Integrity Regulation

This memorandum is a follow up to our conversations regarding the Integrity Regulation. The Regulation for the Child and Adult Care Food Program (CACFP) was published June 27, 2002. Many changes will need to be implemented by the Arizona Department of Education as well as the organizations participating on the Food Program. Training on the Federal Regulation will also be offered to Sponsoring Organizations through conferences such as the Roundtable Conference and the TSA Conference where USDA will provide guidance with interpretation and implementation of this Regulation. Many Arizona Sponsors have been approved to attend these conferences. These forums will allow Sponsors to learn directly from the USDA officials and give Sponsoring Organizations the opportunity to provide input. The Department of Education strongly encourages all Sponsors to provide comments regarding this Interim Regulation via the methods described in the preamble of the Regulation. All Sponsoring Organizations are encouraged to develop a plan to comply with the new Regulation as soon as possible, with complete implementation not later than October 1, 2003.

The Arizona Department of Education will receive USDA instruction on the Integrity Regulation during December 2002. After attending this session, training will be developed specifically for Child Care Home Sponsoring Organizations. The Department of Education will notify all participating sponsors of the mandatory training. Furthermore, additional mandatory training sessions will be provided to all Sponsoring Organizations that specifically address CACFP Management Plans and Budgetary Compliance with the FNS Instruction 796-2 Revision 3 during FY 2003. The Arizona Department of Education is committed to assisting all CACFP Organizations in focused program improvement in the areas of financial viability, accountability and capability.

Should you have additional questions regarding the Integrity Regulation, please contact me at 602.54.8710.

DATES: The effective date for this rule is July 29, 2002. For sponsoring organizations participating in the Program as of the date of publication, the provision at § 226.16(b)(1) relating to the appropriate level of monitoring staff must be implemented no later than July 29, 2003. To be assured of consideration, comments must be postmarked on or before December 24, 2002. Comments will also be accepted via E Mail if sent to *CNDPROPOSAL@FNS.USDA.GOV* no later than 11:59 p.m. on December 24, 2002.

ADDRESSES: Comments should be addressed to Mr. Robert Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, Department of Agriculture, 3101 Park Center Drive,



Institution Eligibility

Changes made by Agricultural Risk Protection Act

- Added three new eligibility requirements for sponsoring organizations:
- Made two changes to basic eligibility requirements for all institutions

Changes ARPA Made

- Employment of an appropriate number of monitoring staff
- Establishment of a policy that prohibits SO employees from having other employment that interferes with their program responsibilities and duties
- For new sponsoring organizations to be in compliance with any State law, regulation, or policy requiring them to be bonded

Outside Employment

“The policy must restrict other employment by employees that interferes with an employee’s performance of program-related duties and responsibilities....”



Limits on Outside Employment

- Cannot interfere with program duties
- Cannot be a real/apparent conflict of interest

Outside Employment Policy

As a requirement sponsoring organizations must submit their outside employment policy to the State agency as part of their Program applications

Past Performance

Should the SA become a Private Investigator?



“NO!!”

Past Performance

“ Institutions must not have been determined to be ineligible to participate in any publicly funded program by reason of violation of the requirements of the program”

Past Performance & Criminal Convictions

The purpose of this provision in the law and the regulations is to ensure that organizations and individuals whose actions have demonstrated a lack of business integrity are not permitted to enter or remain in CACFP

Introduction to the National Disqualified List

It's where institutions, responsible principals, or responsible individuals determined to be seriously deficient by violation of program requirements are placed resulting in a ineligible status

National Disqualified List

- SA's check: institutions, principals and facilities
- Institutions check: principals
- Sponsors check: facilities and principals
- Abbreviated appeal

It's a Requirement Now

To help State agencies and sponsors check the National Disqualified List, the interim rule requires the collection of a limited amount of personal information from certain individuals

Name, Address and DOB

- An institution is required to submit the name, date of birth, and address of its Executive Director and Chairman of the Board as part of its application
- In addition, providers are required to provide their full name, address, and date of birth in the sponsor-provider agreement

Name, Address and DOB

(con't)

- Refusal to provide information?
 - For Institutions = Not a complete application
 - For Providers = Similar course of action

Performance Standards

ARPA made changes designed to reinforce the Management Improvement Training on how State agencies must review a Program application in order to assess an Institution's qualifications to operate the CACFP

Why Performance Standards?

- Viability, Capability and Accountability (VCA)
- Use as evaluation tool
- No more checklists
- Compare application content to performance standards

Standard 1: Financial Viability and Financial Management

- Institution is financially viable
- Institution will make proper expenditures
- All employees with FM responsibility are aware of procedures

How to Document Compliance

- Sponsors — budget and management plan

Financial Viability

- Resources
- Program reimbursements
 - Grants and loans
 - Donations
 - Other Federal funds if permitted
 - For-profit subsidiary

Warning Signs

- Unexplained growth projection
 - Compare this year to last year
 - Compare to other sponsors

SA/sponsor budget tracking is critical

Recruitment Practices

- New sponsors: Unserved facilities/participants
- All sponsors must use appropriate recruitment practices
- Recruitment a financial viability issue

Financial Viability: Recap

- All resources
- Assets/liabilities
- Budget/proper expenditures
- Size/nature of program
- History
- Recruitment

Performance Standard 2: Administrative Capability

- Adequate, qualified staff
- For sponsors:
 - Policies and procedures
 - Job descriptions
 - Budget/management plan
 - Staffing standards for monitoring

Administrative Capability

New Institutions

- Experienced, qualified staff
- Or, plan for obtaining startup technical assistance
- Personnel system

Performance Standard 3: Internal Controls for Accountability

- Board of Directors (nonprofits)
- Financial management system with written controls (all institutions)
- Recordkeeping system (all institutions)

Responsibilities of Boards of Directors

- Determining institution's mission and purpose
- Ensuring compliance with regulatory requirements
- Selection and evaluation of the Executive Director
- Regular training on Program

Responsibilities of Boards of Directors (con't)

- State specific
- What if institution is out of compliance?
 - Ensure compliance within a reasonable time

More Accountability Controls

- Factors to be looked at for **ALL** institutions:
 - Financial controls ensuring proper use of funds and detect improper activities
 - Records documenting compliance with financial rules

Accountability Controls for Sponsors

- Sponsor staff & facility training
- Monitoring
- Tiering
- Compliance with admin cost limits
- Facility compliance with meal pattern, other requirements

Summary of VCA

- Viable, capable and accountable
- Evaluate against standards
- Renewal applications denied if fail to demonstrate



Monitor Staffing Standards

The Law

- ARPA requires Sponsors:
 - To employ appropriate number of staff to adequately monitor
 - Based on the number and characteristics of facilities
 - Ensure effective oversight
 - State agency approval

A Two-Part Approach

- Federal staffing standards
- State staffing factors
- Key to determining Sponsor's capability



Federal Staffing Standards

- Sponsor of homes:
 - 1 FTE monitor for each 50-150 homes
 - The standards do not apply to sponsors with fewer than this number of homes

Why Ranges?

- Ensure “effective oversight”
 - Number of homes
 - Facility characteristics
 - State agency approval
 - Federal regulations



Federal Staffing Standards Calculations

40 hours x 52 weeks = 2,080 hours

- 240 (absent hours)

1,840 work hours

- Annual monitoring of each home/center for 3 reviews = 12 to 15 hours
- $1,840/12 = 153$ homes/centers
- $1,840/15 = 123$ homes/centers

The Limits Are Fixed

- Upper and lower limits are fixed
- SAs may request a waiver
 - Regular procedures for waivers
 - Include justification

What Is An FTE?

- The amount of work that one person, working full time (40 hours per week) would perform in a year
- May be more than 1 person
 - Standard may not be monitor's capability
 - Limit applies to sponsorship as a whole, not to a single monitor
- Management Plan must clearly outline
 - Monitoring related duties of each staff
 - Number of monitoring hours/staff person

What is Monitoring?

- Planning and scheduling reviews
- Preparation prior to review
- Travel for monitoring
- Conducting reviews
- Technical assistance related to review findings

What else is Monitoring?

- Review follow-up
- Reporting
- Supervisory review of monitoring
- Training of monitors
- Appeals based on review findings

What is Not Monitoring?

- Edit checks
- Processing payments
- Provider application/agreements
- Required annual training
- Outreach or recruitment
- Non-monitoring supervision
- Appeals not related to review findings
- Non-CACFP monitoring



State Staffing Factors

- Requirement: SA must develop factors consistent with Federal staffing standards
- Purpose: account for circumstances that affect sponsors' ability to meet monitoring requirements

Suggested State Staffing Factors

- Geographic location
- Geographic dispersion
- Literacy level/language spoken
- Previous review results
- Experience level of providers & monitors
- SA policies

When To Review Staffing Ratios

- During application process
 - Management plan review
 - Administrative budget request

What We Will Look For: Management Plans

- Provide details showing:
 - Monitoring-related duties of each employee
 - Number of hours and percentage of time spent on monitoring duties
 - Job descriptions

What We Will Look For: Budgets

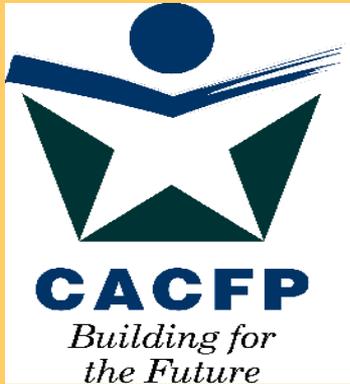
- The amount of funds allocated to monitoring functions
 - SA comparison
- Submit revised budget, with revision to monitoring part of management plan, if not due for re-application

Review

- ARPA requires “appropriate” number of monitors
- Range:
 - 50-150 for home sponsors

Review (con't)

- Range based on expectations
- Flexibility for States based on circumstances
- Requirements for implementation
- How to calculate FTE's / how to review plan and budget



Review Requirements

Overview

- New requirements for State agencies
- Requirements for unannounced reviews
- General procedures applicable to all reviews

State Agency Review Changes

- Change in review cycle
- Focused reviews
- Review of sponsor implementation of SD, termination, and appeal procedures for providers



New Terms

- Larger sponsor = sponsor with > 100 facilities
- Smaller sponsor = sponsor with ≤ 100 facilities

Out With the Old / In With the New

OLD – Before ARPA

NEW – After ARPA

At least 1/3 institutions

At least 1/3 institutions

>200 homes every
other year

>100 facilities every
other year

All other institutions,
once every 4 years

All other institutions,
once every 3 years

Why Redefine “Large Sponsor”?

- Sponsors of centers needed more oversight
- Medium sized sponsors of homes needed more oversight

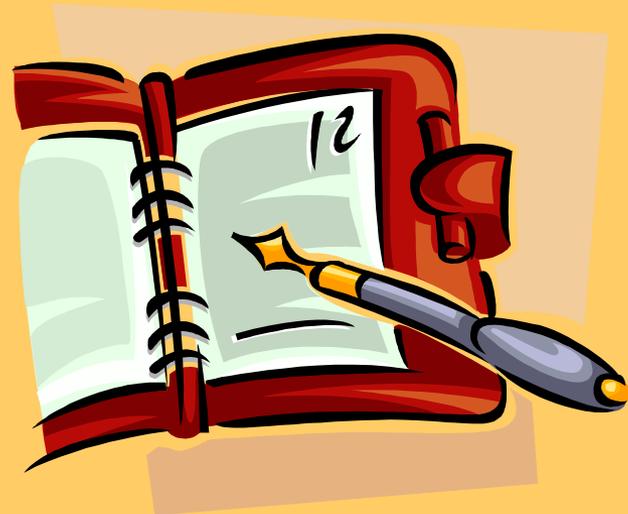


Focused Reviews

- More frequent reviews for institutions found SD
- Revision will ensure
 - Monitoring for future serious deficiencies
 - Corrective action was successful

New Procedures for Providers

- SA must review home sponsor implementation of new procedures for:
 - Serious deficiency & termination
 - Provider appeals



Why Bother With Unannounced Reviews?

- Recommended in MIG Training
- Congress mandated
- Interim rule requirement for sponsors and State agencies

It's the Law

- Unannounced visits to sponsored homes not < once every 3 years
- At least one site visit to sponsored homes each year
- At least one site visit to sponsors and independent centers every 3 years

By Definition

Unannounced = no prior notice



A Tale Of Two Requirements

- Unannounced reviews by sponsors
- Unannounced reviews by State agencies
- General procedures and issues for all reviews

Unannounced Reviews By Sponsors

- Two unannounced reviews of each facility each year
- SAs may require:
 - Additional reviews either announced or unannounced
 - All reviews unannounced

Follow Up Reviews By Sponsors

- Interim rule requires that when a sponsor detects one or more serious deficiencies in a facility review, the next review must be unannounced.
- Rule lists SDs for homes
- SD for home = SD for sponsored center

Unannounced Reviews By State Agencies

- SAs must conduct some unannounced facility reviews
- How many?
 - Minimum of 15% of required facility reviews

Considerations for Unannounced Reviews

- Facilities sponsored by problem organizations
- History of Program mismanagement

Review Procedures

- Only during normal hours of operation
- Reviewer must have a photo ID



Unannounced or Announced Reviews

- Institutions and Sponsoring organizations
 - Drivers License and
 - Proof of affiliation with the organization on Sponsor/Institution letterhead
or
 - Photo ID issued by Sponsor/Institution

What If No One Is Home?

- Homes must notify sponsors in advance of absences during meal times
- If a provider fails to notify the sponsor of a planned absence and an unannounced review is made, all meals must be disallowed
- SAs & sponsors may establish additional requirements

Why Doesn't This Count?

An attempted review, such as when the provider is not home, doesn't count as one of the sponsor's three required reviews because nothing has been reviewed



Summary

- Changes to State agency reviews
 - Review cycle
 - Redefinition of “large sponsor”
 - Focused reviews
 - Procedures for provider terminations and appeals

Summary

(cont')

- Unannounced reviews by
 - Sponsors (including follow up reviews of providers)
 - State agencies
- General review procedures, including notification requirements

And in Closing

Unannounced reviews are just a tool we can use to build a better, more responsible Program. However, like any tool it has to be used properly, and to use it properly we need to learn how.