

Child and Adult Care Food Program Administrative Review Procedures

The following Child and Adult Care Food Program (CACFP) administrative review procedures include notification, request, and procedure for a hearing in accordance with federal regulation 7 CFR § 226.6(k).

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. Determination that the corrective action is inadequate. [226.6(k)(3)(iii)]
4. Disqualification and placement on ADE list and National disqualified list. [226.6(k)(3)(iv)]
5. Termination of Institution's agreement. [226.6(k)(3)(v)]
6. State Agency or FNS decision regarding removal from the National disqualified list. [226.6(k)(3)(vi)]
7. State agency refusal to consider an application submitted by an institution or facility on the National disqualified list. [226.6(k)(3)(vii)]

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:

Associate Superintendent, Health and Nutrition
Arizona Department of Education
1535 West Jefferson Street, Bin 7
Phoenix, Arizona 85007
3. ADE shall acknowledge receipt of the request for review within ten 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 thirty 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, responsible principals or responsible individuals or their representative's 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/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, and 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 allow for combined administrative reviews for responsible individuals and responsible principals. [226.6(k)(8)]

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.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

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To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992 Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: Call: (202) 690-7442; or (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.