



**Arizona Department of Education  
Health and Nutrition Services**

**Appeal Procedures**

The following Summer Meal Service appeal procedures include notification, request, and procedure for a hearing in accordance with federal regulation 7 CFR § 225.13.

**A. PURPOSE**

Sponsors participating in the summer meal service may request an appeal of administrative review of findings that result in:

- A denial of an application for participation;
- A denial of a sponsor's request for an advance payment;
- A denial of a sponsor's claim for reimbursement (except for late submission under § 225.9(d)(6));
- A State agency's refusal to forward to FNS an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim;
- A claim against a sponsor for remittance of a payment;  
The termination of the sponsor or a site;
- A denial of a sponsor's application for a site;  
A denial of a food service management company's application for registration, if applicable; or
- The revocation of a food service management company's registration, if applicable.

Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under § 225.9(d)(6).

## **B. PROCEDURE**

1. Whenever the Arizona Department of Education (ADE) takes action that is subject to review as described in (A) above, ADE will provide the sponsor a written notice that details the action and the basis for the action and advise the sponsor of its right to an appeal. The notice is considered to be received by the sponsor or food service management company when it is delivered by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email. If the notice is undeliverable, it is considered to be received by the sponsor or food service management company five days after being sent to the addressee's last known mailing address, facsimile number, or email address.
2. The written request for appeal must be submitted by the sponsor or food service management company to ADE no later than 14 calendar days from the date the sponsor receives written notice that details the action and the basis for the action. The appellant is allowed the opportunity to review any information upon which the action is based. The sponsor can refute the charges contained in the notice of action either in person or by filing written documentation with the review official. To be considered, written documentation must be submitted by the appellant within seven days of submitting the appeal, must clearly identify the State agency action being appealed, and must include a photocopy of the notice of action issued by ADE.
3. The appeal request must be sent to:

Associate Superintendent, Health and Nutrition  
Arizona Department of Education  
1535 West Jefferson Street, Bin #7  
Phoenix, Arizona 85007

4. The Associate Superintendent will forward the request to the review official and within ten calendar days after receipt, will acknowledge to the sponsor the receipt of the request for an appeal.
5. If the appellant has requested a hearing, the appellant and ADE shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing. The hearing will be held within 14 days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received.

6. A hearing will be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter appealing the action. The appellant may retain legal counsel or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the ADE shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official.
7. The review official will be independent of the original decision-making process and will make a determination based on information provided by ADE and the appellant, and on Program regulations.
8. Within 5 working days after the appellant's hearing, or within 5 working days after receipt of written documentation if no hearing is held, the review official will make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested;
9. ADE's action remain in effect during the appeal process. However, participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning ADE's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if ADE's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, ADE shall so specify in its notice of action.
10. The determination by the State review official is the final administrative determination to be afforded to the appellant.
11. ADE shall send written notification of the complete appeal procedures and of the actions which are appealable, as specified in paragraph (a) of this section, to each potential sponsor applying to participate and to each food service management company applying to register in accordance with § 225.6(g).
12. A record regarding each review shall be kept by ADE, as required under § 225.8(a). The record shall document ADE's compliance with these regulations and shall include the basis for its decision.

Appeal procedures are included in 7 CFR § 225.13(a). The Code of Federal Regulations should be consulted for additional rules regarding the administrative review process.

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

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