

# CHILDREN'S HUNGER ALLIANCE

## Child and Adult Care Food Program Family Day Care Corrective Action Guidance

*Includes:*

*Corrective Action Procedures*  
*Termination of Agreement for Cause*  
*Serious Deficiency Process*  
*Suspension of Participation*  
*Placement on National Disqualified List*  
*Conditions of Reinstatement*  
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*Appeal Procedures*

*March 2013*

Children's Hunger Alliance  
 Child and Adult Care Food Program  
 Family Day Care Home Sponsor Guidance

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## **Introduction**

In order to participate in the Child and Adult Care Food Program (CACFP), a day care home must operate under the auspices of and enter into a written agreement with an approved CACFP day care home sponsoring organization. The agreement must specify the rights and responsibilities of both parties which shall include, but not be limited to, the right of the sponsoring organization to terminate the CACFP agreement for cause and the requirement that the day care home comply with the federal regulations governing the program.

Federal law has established procedures related to terminating participation of day care homes (providers) in the CACFP. It gives providers the opportunity to request an administrative review (also referred to as an appeal) prior to termination of their CACFP agreement. This administrative review right is only required when the termination is “for cause”. Termination for convenience also is permitted, and does not require the sponsoring organization to offer an appeal to the provider in these situations.

The Ohio Department Education (ODE) will not offer a state-level appeal process for family day homes. Instead, each CACFP day care home sponsoring organization will follow the same review process in which the appeal review official is an impartial and independent person not involved in the decision to terminate the home’s participation.

Sponsoring organizations must follow the procedures for termination including the corrective action process, the serious deficiency process, suspension of participation, and provider appeal rights outlined in this guidance document.

### **Corrective Action Procedures**

It is the responsibility of the sponsoring organization to provide sufficient training and technical assistance during the pre-approval and 30-day follow-up visits to assure successful participation for all providers. Technical assistance must be provided and documented during the early stages of program participation.

Corrective action procedures may take into consideration the following special extenuating circumstances: new to program participation, language barriers and literacy barriers, or other documented special circumstances. These circumstances may require extra technical assistance. Once a problem with meeting CACFP requirements is identified by a sponsoring organization, extra technical assistance must be provided and documented. If a sponsor identifies that corrective action is required, the sponsoring organization will notify the provider, in writing, that he/she has some deficiencies in the operation of the CACFP. (Refer to Sample Letter #1—Non-Compliance Notice/Corrective Action Plan). Once provider submits an acceptable corrective action plan, sponsor may complete additional visits to confirm provider is following the plan of action submitted. Documentation must indicate when the provider has completed corrective action or, if no improvement is made, the provider must be declared seriously deficient.

Corrective Action Guidance can be found at the end of this document. The deficiencies listed under each regulation are common examples. This should not be interpreted as an exhaustive list. Other actions could also be considered deficiencies.

## Termination of Agreement for Cause

A sponsoring organization (sponsor) must initiate action to terminate the CACFP agreement of a day care home (provider) for cause, if the sponsor determines the provider has committed one or more serious deficiencies listed below. Upon making a serious deficiency determination, if the provider does not take action to fully and permanently correct the serious deficiency within the allotted time, the provider's agreement must be terminated.

### List of Serious Deficiencies:

1. Submission of false information on the application (sponsor/provider agreement) (7 CFR 226.16[1][2][i]).
2. Submission of false claims for reimbursement (7 CFR 226.16[1][2][ii]).
3. Simultaneous participation under more than one sponsoring organization (7 CFR 226.16[1][2][iii]).
4. Non-compliance with the program meal pattern (7 CFR 226.16[1][2][iv]).
5. Failure to keep required records (7 CFR 226.16[1][2][v]).
6. Conduct or conditions that threaten the health or safety of a child(ren) in care, or the public health or safety (7 CFR 226.16[1][2][vi]).
7. A determination that the day care home 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, antitrust 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. (7 CFR 226.16[1][2][vii]).
8. Failure to participate in training (7 CFR 226.16[1][2][viii]).
9. Any other circumstance related to non-performance under the sponsoring organization-day care home agreement, as specified by the sponsoring organization or the State agency. (7 CFR 226.16[1][2][ix]).

## Serious Deficiency Process

If the serious deficiency(ies) constitutes an imminent threat to the health and safety of participants, or the provider has engaged in activities that threaten the public health or safety, the sponsor must follow the procedures outlined in Suspension of Day Care Homes CACFP Participation section of this guidance document.

If a sponsor identifies other conduct that is the basis for declaring a provider seriously deficient in the operation of the CACFP, which may result in provider's termination for cause of an agreement to participate in the CACFP (as outlined on the previous page), the following actions will be taken:

### Serious Deficiency Notification Procedures

1. The sponsor will thoroughly investigate and document the serious deficiency (ies). This process may include, but not be limited to, parent contact for the verification of information.
2. The sponsor will notify the provider, in writing, that he/she has been found to be seriously deficient. (Refer to Sample Letter #2—Serious Deficiency Notice.) The sponsor will provide a copy of the serious deficiency notice to ODE.

The notice will include:

- (a) The serious deficiency (ies).
- (b) The actions to be taken by the provider to correct the deficiency(ies).
- (c) The allotted time to correct the serious deficiency(ies). This must be as soon as possible, but not to exceed 30 days.
- (d) That the serious deficiency determination is not subject to administrative review (appeal).
- (e) That failure to fully and permanently correct the serious deficiency(ies) within the allotted timeframe will result in the sponsor's proposed termination of the provider's agreement and disqualification of the provider.
- (f) That the provider's voluntary termination of its agreement with the sponsor after having been notified that he/she is seriously deficient will still result in the provider's formal termination by the sponsor and placement of the home and the provider on the national disqualified list.

3. The sponsor will provide technical assistance as appropriate in the areas identified as seriously deficient.

#### Successful Corrective Action

4. If the provider corrects the serious deficiency(ies) to the sponsor's satisfaction within the allotted timeframe, the sponsor will notify the provider that the determination of serious deficiency has been rescinded. (Refer to Sample Letter #3—Successful Corrective Action, Rescission of Serious Deficiency.) The sponsor will also provide a copy of this notice to ODE.

#### Unsuccessful Corrective Action—Proposed Termination and Proposed Disqualification

5. If the provider fails to implement timely corrective action to fully and permanently correct the serious deficiency(ies) cited, the sponsor must issue a notice proposing to terminate the provider's agreement for cause. (Refer to Sample Letter #4—Notice of Proposed Termination and Proposed Disqualification.) The sponsor will provide a copy of this notice to ODE.

The notice will:

- (a) Provide explanation of the provider's opportunity for an administrative review (appeal) of the proposed termination and the procedures to follow to request such appeal.
- (b) Inform the provider that he/she may continue to participate and receive program reimbursement for eligible meals served until the appeal concludes.
- (c) Inform the provider that termination of the agreement will result in the day care home's termination for cause and disqualification.
- (d) State that if the provider seeks to voluntarily terminate the agreement with the sponsor after receiving the Notice of Proposed Termination, the home will still be placed on the National Disqualified List.

6. If an administrative review (appeal) is requested, the sponsor will follow ODE's Administrative Review (Appeal) Procedures for Family Day Care Homes. If the appeal official overturns the sponsor's proposed actions, formal notification will be used to rescind the serious deficiency. (Refer to Sample Letter #5—Rescission of Serious Deficiency, Proposed Termination, and Proposed Disqualification.) The sponsor will provide a copy of this notice to ODE.

#### Agreement Termination and Disqualification

7. The sponsor will immediately terminate the day care home's agreement and disqualify the provider when the appeal official upholds the sponsor's proposed termination and proposed disqualification. At the same time, the notice of termination and disqualification is issued to the provider. (Refer to Sample Letter #6—Notice of Termination and Disqualification - after sponsor wins appeal.) The sponsor will provide a copy of this notice to ODE.

8. If the provider does not request an appeal, the sponsor will immediately terminate the provider's agreement and disqualify the home when the opportunity to request the appeal expires. At the same time, the notice of termination and disqualification is issued to the

provider. (Refer to Sample Letter #7—Notice of Termination and Disqualification following failure to appeal.) The sponsor will provide a copy of this notice to ODE.

9. The state agency will report the name of the terminated and disqualified provider to the USDA placing his/her name on the National Disqualified List.

#### Program Payments during Serious Deficiency Process

The sponsor will continue to pay any legitimate 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 administrative review (appeal).

#### **Suspension of Day Care Homes CACFP Participation**

Suspension of provider's participation in the CACFP will occur if serious deficiency(ies) constitutes an imminent threat to the health and safety of participants, or the provider has engaged in activities that threaten the public health or safety. Imminent threat to health or safety constitutes a serious deficiency. However, the sponsor will use the procedures in this section to provide notice of suspension and proposed termination to the provider.

1. If the state or local health or licensing officials have cited a provider for serious health or safety violations, the sponsor will immediately suspend the provider's CACFP participation prior to any formal action by the Department of Jobs and Family Services to revoke the home's license.
2. If the sponsor determines that there is an imminent threat to the health or safety of participants at the day care home, or that the provider has engaged in activities that threaten the public health or safety, the sponsor must immediately notify JFS and take action that is consistent with their recommendations and requirements.

#### Notice of Suspension, Serious Deficiency, and Proposed Termination Procedures

3. The sponsor will notify the provider that his/her participation has been suspended, that the provider has been determined seriously deficient, and that the sponsor proposes to terminate the provider's agreement for cause. (Refer to Sample Letter #8—Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice.) The sponsor will provide a copy of the notice to ODE.

The notice will:

- (a) Specify the serious deficiency(ies) found and the provider's opportunity for an administrative review (appeal) of the proposed termination, and the procedures to follow to request such appeal.
- (b) State that participation (including all program payments) will remain suspended until the administrative review (appeal) concludes.
- (c) Inform the provider that if the appeal official overturns the suspension, the provider may claim reimbursement for eligible meals served during the suspension.

(d) Inform the provider that termination of the home's agreement will result in placement of the home on the National Disqualified List.

(e) State that if the provider seeks to voluntarily terminate the agreement after receiving the notice of proposed termination, the home will still be terminated for cause and placed on the National Disqualified List.

4. If an appeal is requested, the sponsor will follow the Administrative Review (Appeal) Procedures for Family Day Care Homes detailed in this document. If the appeal official overturns the sponsor's proposed actions, formal notification will be used to rescind the serious deficiency. (Refer to Sample Letter #9—Rescission of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification: Imminent Threat to Health or Safety -after provider wins appeal.) The sponsor will provide a copy of this notice to ODE.

#### Agreement Termination and Disqualification

5. The sponsor will immediately terminate the day care home's agreement and disqualify the home when the appeal official upholds the sponsor's proposed termination and proposed disqualification and issue the notice of termination and disqualification to the home. (Refer to Sample Letter #10—Notice of Termination and Disqualification: Imminent Threat to Health or Safety - after sponsor wins appeal.) The sponsor will provide a copy of this notice to ODE.

6. If the provider does not request an appeal, the sponsor will immediately terminate the provider's agreement and disqualify the home when the opportunity to request the appeal expires. At the same time, the notice of termination and disqualification is issued to the home. (Refer to Sample Letter #11—Notice of Termination and Disqualification: Imminent Threat to Health or Safety -following failure to appeal.) The sponsor will provide a copy of this notice to ODE.

7. ODE will report the name of the terminated and disqualified provider to the USDA placing his/her name on the National Disqualified List.

#### Program Payments during Suspension

A sponsor is prohibited from making program payments to a provider who has been suspended until an appeal of the proposed termination is completed. If the suspended provider prevails in the appeal, the sponsor will reimburse him/her for eligible meals served during the suspension period.



**Placement on the National Disqualified List  
And  
Conditions of Reinstatement**

Providers terminated and disqualified through the Serious Deficiency and Suspension of Participation processes, will be placed on the National Disqualified List. While on the list, the provider will not be able to participate in the CACFP as a day care home provider. In addition, he/she will not be able to serve as a principal (hold a management position or be an officer) in any CACFP institution or facility.

The provider will remain on the list until such time as ODE determines that:

1. The conduct that was the basis for the serious deficiencies has been permanently corrected.

Or

2. It has been seven years from the date of termination and disqualification.

And

3. The provider has repaid all funds received for which he/she was not eligible. If any debt relating to the serious deficiencies has not been repaid, the provider will remain on the list until the debt has been repaid.

ODE and sponsors will be able to access the National Disqualified List. Each sponsor will continually check the list when entering into agreement with a provider since sponsors are prohibited from entering into an agreement with any provider who has been terminated and disqualified and subsequently placed on the National Disqualified List.

**Administrative Review (Appeal) Procedures**

ODE requires that each sponsoring organization establish an administrative review (appeal) process in which the appeal review official is an impartial and independent person not involved in the decision to terminate the provider's participation.

**Actions Subject to Appeal**

The following appeal procedures established in accordance with Section 226.6, 226.16 and 226.18 of the Child and Adult Care Food Program regulations, as amended by Public Law 106-224, shall be implemented and will be offered by the sponsor to any provider when the sponsor:

- 1) Proposes to terminate its program agreement for cause or
- 2) Suspends their participation.

### Actions Not Subject to Appeal

Neither ODE nor the sponsor is required to offer an administrative review for reasons other than those listed above.

### Providing the Appeal Procedure to Providers

The sponsor will provide a copy of the appeal procedures to each provider:

1. Annually.
2. When the sponsor takes any action subject to an appeal as detailed above.
3. Any other time upon request.

### Procedures

The sponsor will follow the Administrative Review (Appeal) Procedures for Family Day Care Homes. These procedures are found at the end of this guidance document.

## Sample Forms and Sample Letters

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<Sponsoring Organization Name/Letterhead>

Notification of Reasons and Procedures for Termination of Providers  
Child and Adult Care Food Program (CACFP) Participation

<Sponsoring Organization Name> may terminate the agreement with <Provider's Name> to participate in the CACFP for cause or convenience. In the case of "for cause", termination would be based on the provider's failure to take timely corrective action to fully and permanently correct a serious deficiency.

Serious deficiencies include:

- Submission of false information on the application (7 CFR 226.16[1][2][i]).
- Submission of false claims for reimbursement (7 CFR 226.16[1][2][ii]).
- Simultaneous participation under more than one sponsoring organization (7 CFR 226.16[1][2][iii]).
- Non-compliance with the program meal pattern (7 CFR 226.16[1][2][iv]).
- Failure to keep required records (7 CFR 226.16[1][2][v]).
- Conduct or conditions that threaten the health or safety of a child(ren) in care, or the public health or safety (7 CFR 226.16[1][2][vi]).
- 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, antitrust 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. (7 CFR 226.16[1][2][vii]).
- Any other circumstance related to non-performance under the sponsoring organization-day care home agreement, as specified by the sponsoring organization or the State agency. (7 CFR 226.16[1][2][ix]).

Providers have the right to appeal a proposed action to terminate the agreement or to suspend participation in the CACFP by submitting a written request for an administrative review (appeal) as outlined below.

In the case where the outcome of an administrative review (appeal) upholds the intent to terminate or suspend CACFP participation, the sponsor must immediately terminate the provider's agreement and disqualify the provider from CACFP.

The names of disqualified providers will be placed on a National Disqualified List that will be made available to all state agencies and all CACFP sponsors.

Once included on the National Disqualified List, a provider will remain on the list until such time as the state agency determines that the serious deficiency(ies) that led to placement on the list has(ve) been corrected, or until seven years have elapsed since they were disqualified from participation. However, if any debt relating to the serious deficiencies has not been repaid, a provider will remain on the list until the debt has been repaid.

Sample Letter # 1  
**Non-Compliance Notice**

Notice of Noncompliance and Corrective Action  
<Sponsoring Organization Name/Letterhead>

<Date>  
<Provider Name>  
<Provider Number>  
<Address>  
<City, State, Zip>

Dear <Provider>:

During an attempted home visit conducted on <insert date>, you were found out of compliance in the operation of the Child and Adult Care Food Program.

<insert brief explanation of the area of non-compliance>

Enclosed you will find a corrective action plan. Please read thoroughly, paying particular attention to the sections listing the finding and regulation you were out of compliance with, the area of non-compliance, and then most importantly the section where you write your corrective action plan.

You must fill out the section marked Corrective Action Plan. In this section, you must develop a plan of action addressing how you will permanently change your procedures to not allow the area of non-compliance to occur again. Please do not give an explanation; we need a plan of action. If you feel the need to give an explanation feel free to include a separate sheet of paper with your explanation. Plans submitted without an acceptable corrective action plan will be returned.

Plans are expected to be returned by the deadline listed on the Corrective Action Plan form. This can be found at the top of the form directly above the address you must submit your plan to. Failure to submit your plan by the deadline will result in your daycare being found seriously deficient.

We are here to support you and help you be successful in your daycare business and in the participation of the food program. If you have any questions, please be sure to contact your Field Representative for guidance so she can help you fill out the form properly and submit in a timely manner.

Sincerely,

<Regional Manager Name>  
Regional Manager, Early Childhood Nutrition and Education



**Corrective Action Plan**

Provider Name:		Provider Number:		DOB:	
Address:		City:		State: OH	Zip:
Date of home visit/non-compliance:			Field Representative:		
Date Corrective Action Plan Due:			(Office Use Only) Date Corrective Action Plan Received:		
Address to Return Corrective Action Plan:			Approved <input type="checkbox"/>		Not Approved <input type="checkbox"/>
Children's Hunger Alliance Attn: Afonda Johnson 100 South Fifth Street Columbus, OH 43215			Comments:		
FINDING: (Type in the finding and the regulation)			NON-COMPLIANCE:		

PROVIDER CORRECTIVE ACTION PLAN (use additional paper, if necessary):

I understand that this Corrective Action Plan established on (date) \_\_\_\_\_ will correct the area of non-compliance immediately. I understand that failure to permanently correct the area of non-compliance could result in further corrective action including a Proposed Termination and Disqualification action from the Child and Adult Care Food Program.

Provider's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Regional Mgr/Program Compliance Specialist Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Sample Letter #2

Serious Deficiency Process  
Sample Letter#2: Serious Deficiency Notice

**[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or e-mail as required by 7CFR (226.2) (definition of “notice”) in the regulations.]**

Date

Provider Name  
Provider Street Address  
Provider City, State 00000

Dear [Provider]:

This letter concerns the [brief description of the basis for the serious deficiency determination- review, audit, etc. and date] of your operation of the Child and Adult Care Food Program (CACFP).

**SERIOUS DEFICIENCY DETERMINATION**

Based on the [review/audit/etc.], we have determined that you are seriously deficient in your operation of the CACFP. If you do not fully and permanently correct all of the serious deficiencies and submit documentation of the corrective action by the due date, we will:

- Propose to terminate your agreement to participate in the CACFP for cause, and
- Propose to disqualify you from future CACFP participation.

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation. If disqualified, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in any CACFP institution or facility. You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid.

These actions are being taken pursuant to section 226.16 (1) of the CACFP regulations (7 CFR 226.16(1)).

**SERIOUS DEFICIENCIES AND REQUIRED CORRECTIVE ACTION**

The following paragraphs detail each serious deficiency and the corrective action required.

**[Insert discussion of serious deficiencies and required corrective action. Each serious deficiency discussed must include a citation to the relevant serious deficiency in the regs at 7CFR 226.16(1)(2) (if the serious deficiency is not specifically listed, cite 7 CFR 226.16(1)(2)(vii) “any other circumstance related to non-performance under the sponsoring organization-day care home agreement”).]**

SUMMARY

We have determined that you are seriously deficient in your operation of the CACFP. You must provide us documentation that shows you have taken the required corrective action for each of the serious deficiencies cited in this letter. The documentation must be received (not just postmarked) by [corrective action deadline; may establish different deadlines for different serious deficiencies].

If we do not receive the documentation of your corrective action by the due date, or if we determine that the actions taken do not fully and permanently correct all of the serious deficiencies, we will propose to terminate your CACFP agreement for cause and will propose to disqualify you.

You may not appeal the serious deficiency determination. However, if we propose to terminate your agreement for cause or propose to disqualify you, you will be able to appeal those actions and you will be advised of your appeal rights and the appeal procedures at that time.

You may continue to participate in the CACFP during the corrective action period. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

[Insert if applicable: "If we receive the documentation of your corrective action by the due date and determine that it fully and permanently corrects all of the serious deficiencies, then we will conduct an unannounced follow-up review to verify the adequacy of the corrective action."] If we find in [insert if applicable: "the follow-up review or"] any subsequent review that any of these serious deficiencies have not been fully and permanently corrected, we will immediately propose to terminate your agreement for cause and propose to disqualify you without any further opportunity for corrective action.

Sincerely,

Sponsor Employee Name & Title

cc: State agency



Sample Letter #3

Serious Deficiency Process

Sample Letter #3: Successful Corrective Action, Temporary Deferment of Serious Deficiency

**[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service(such as FedEx), fax or e-mail as required by 7 CFR 226.2 (definition of “notice”) in the regulations.]**

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear (Provider):

This letter concerns the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the Child and Adult Care Food Program (CACFP).

We received the documentation you sent us detailing the actions you have taken to correct these serious deficiencies on {date}, before the corrective action deadline. [Insert if applicable: “We conducted a follow-up review on [date] to verify the adequacy of the corrective actions.”]

**SERIOUS DEFICIENCY DETERMINATION TEMPORARILY DEFERRED**

Based on our review of the documentation [insert if applicable: “and the [date] follow-up review”], we have determined that you have fully and permanently corrected the serious deficiencies that were cited in the Serious Deficiency Notice. As a result, we have temporarily deferred our serious deficiency determination as of the date of this letter. This also means that we will not propose to terminate your agreement for cause based on this serious deficiency finding or propose to disqualify you on that basis.

**ADEQUACY OF CORRECTIVE ACTIONS**

The following paragraphs describe the results of our corrective action.

[Insert discussion of each serious deficiency and why the corrective action is adequate. Each serious deficiency discussed must include a citation to relevant serious deficiency in the regs at 7 CFR 226.16(1)(2) (if the serious deficiency is not specifically listed, site 7 CFR 226.16(1)(2)(ix)”any other circumstance related to non-performance under the sponsoring organization-day care home agreement”).]

[Insert if appropriate: Our report on the [date] follow-up review will be provided to you in a separate letter.]

Serious Deficiency Process

Sample Letter #3: Successful Corrective Action, Rescission of Serious Deficiency

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SUMMARY

We have temporarily deferred our serious deficiency determination. However if we find in any subsequent review that any of these serious deficiencies have not been fully and permanently corrected, we will immediately propose to terminate your agreement for cause and propose to disqualify you without any further opportunity for corrective action.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

## Sample Letter #4

Serious Deficiency Process

Sample Letter #4: Notice of Proposed Termination and Proposed Disqualification

**[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or as required by 7CFR 226.2 (definition of “notice”) in the regulations.]**

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the Child and Adult Care Food Program (CACFP).

We received the documentation you sent us detailing the actions you have taken to correct these serious deficiencies on [date], before the corrective action deadline. [Insert if applicable: “We conducted a follow-up review on [date] to verify the adequacy of the corrective actions.”]

Based on our review of the documentation [insert if applicable: “and the follow-up review”], we have determined that you have not fully and permanently corrected the serious deficiencies that were cited in the Serious Deficiency Notice.

### PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION

As a result, we are:

- Proposing to terminate your agreement to participate in the CACFP for cause effective [date] and
- Proposing to disqualify you from future CACFP participation effective [date].

[The effective date for the termination/disqualification must be after the deadline for requesting an appeal. In addition, the effective date for the disqualification should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation. If disqualified, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as principal in any CACFP institution or facility.

## Serious Deficiency Process

### Sample Letter #4: Notice of Proposed Termination and Proposed Disqualification

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You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until debt has been repaid.

These actions are being taken pursuant to section 226.16(1) of the CACFP regulations (7 CFR 226.16(1)).

#### STATUS OF SERIOUS DEFICIENCIES

The following paragraphs detail each serious deficiency and its status based on our review of the corrective action documentation [insert if applicable: “and the [date] follow-up review”].

[Insert discussion of each serious deficiency and the reasons why corrective action was inadequate (the corrective action may be adequate for some items and not for others; make sure you specify the status of the corrective action for each serious deficiency).

Each serious deficiency discussed must include a citation to the relevant serious deficiency in the regs at 7 CFR 226.16(1) (2) (if the serious deficiency is not specifically listed, cite 7 CFR 226.16(1)(2)(vii) “any other circumstance related to non-performance under the sponsoring organization-day care home agreement”).]

#### APPEAL OF PROPOSED TERMINATION AND PROPOSED DISQUALIFICATIONS

You may appeal the proposed termination of your agreement for cause and your proposed disqualification. A copy of the appeal procedures is enclosed. If you decide to appeal the proposed actions, make sure you follow the appeal procedures exactly because the failure to do so could result in the denial of your request for an appeal.

#### SUMMARY

You have not fully and permanently corrected the serious deficiencies identified in the Serious Deficiency Notice. For this reason, we are proposing to terminate your CACFP agreement for cause and proposing to disqualify you.

If you appeal the proposed termination and the proposed disqualification, the proposed actions will not take effect until the hearing official issues a decision on the appeals. If you don't make a timely request for an appeal, your agreement will be terminated for cause on [date]. If you do not appeal your proposed disqualification, you will be disqualified from future CACFP participation effective [date] and placed on the National Disqualified List.

Serious Deficiency Process

Sample Letter #4: Notice of Proposed Termination and Proposed Disqualification

Page 3

You may continue to participate in the CACFP until [termination/disqualification effective date] or, if you appeal the proposed actions, until the hearing official issues a decision on the appeal. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

Sincerely,

Sponsor Employee Name & Title

Enclosure

Appeal Procedures

cc: State agency

Sample Letter #5

Serious Deficiency Process

Sample Letter #5: Temporary Deferment of Serious Deficiency, Proposed Termination, and Proposed Disqualification (after provider wins appeal)

**[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery services (such as FedEx), fax or e-mail as required by 7 CFR 226.2 (definition of “notice”) in the regulations.]**

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns or [date of Notice of Proposed Termination & Proposed Disqualification] letter (Notice of Proposed Termination & Proposed Disqualification), which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause. In that letter, we also proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You filed a timely appeal of the proposed termination and proposed disqualification. On [date of hearing official's decision], the hearing official issued a decision on the appeal in that decision, the hearing official overturned both of our proposed actions.

**SERIOUS DEFICIENCY DETERMINATION TEMPORARILY DEFERRED**

As a result, we have temporarily deferred our serious deficiency determination as of [date of hearing official's decision] (the date of the hearing official's decision). We also temporarily deferred the proposed termination of your agreement for cause and your proposed disqualification as of the same date.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

Sample Letter #6

Serious Deficiency Process

Sample Letter #6: Notice of Termination and Disqualification (after sponsor wins appeal)

**[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or e-mail as required by 7 CFR 226.2 (definition of “notice”) in the regulations.]**

Date:

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns our [date of Notice of Proposed Termination & Proposed Disqualification] letter (Notice of Proposed Termination & Proposed Disqualification), which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause. In that letter, we also proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficiency in your operation of the CACFP.

You filed a timely appeal of the proposed termination and proposed disqualification. On [date of hearing official's decision], the hearing official issued a decision on the appeal. In that decision, the hearing official upheld both of our proposed actions.

**TERMINATION AND DISQUALIFICATION**

As a result, we are:

- Terminating your agreement to participate in the CACFP for cause effective [date], and
- Disqualifying you from future CACFP participation effective [date].

**[The effective date for the disqualifications should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]**

In addition if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation.

Upon disqualification, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in any CACFP institution or facility.

Serious Deficiency Process

Sample Letter #6: Notice of Termination and Disqualification (after sponsor wins appeal)

Page 2

You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid.

These actions are being taken pursuant to section 226.16(1) of the CACFP regulations (7 CFR 226.16(1)).

SUMMARY

We are terminating your CACFP agreement for cause and disqualifying you. You may not appeal the termination of its agreement for cause or the disqualification. You may continue to participate in the CACFP until [termination/disqualification effective date]. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

Sincerely,

Sponsor Employee Name & Title

cc: State agency



Sample Letter #7

Serious Deficiency Process for Providers

Sample Letter #7: Notice of Termination and Disqualification (following failure to appeal)

**[Note: You must send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax or e-mail as required by 7 CFR 226.2 (definition of “notice”) in the regulations.]**

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns our [date of Notice of Proposed Termination & Proposed Disqualification] letter (Notice of Proposed Termination & Proposed Disqualification), which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause. In that letter, we also proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [date of Serious Deficiency Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You received the Notice of Proposed Termination & Proposed Disqualification on [date received]. You had until [insert deadline for requesting appeal] to submit any requests for appeal of the proposed actions. No request for appeals was submitted by that deadline.

**TERMINATION AND DISQUALIFICATION**

Because the time to request an appeal has now expired, we are:

- Terminating your agreement to participate in the CACFP for cause effective [date], and
- Disqualifying you from future CACFP participation effective [date].

[The effective date for the disqualification should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation.

Serious Deficiency Process for Providers

Sample Letter #7: Notice of Termination and Disqualification (following failure to appeal)

Page 2

Upon disqualification, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in any CACFP institution or facility. You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid.

In addition, you will not be able to serve as a principal in any CACFP institution or facility. You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid.

These actions are being taken pursuant to section 226.16(l) in CACFP regulations (7 CFR 226.16[l]).

SUMMARY

We are terminating your CACFP agreement for cause and disqualifying you. You may not appeal the termination of the agreement for cause or the disqualification. You may continue to participate in the CACFP until [termination/disqualification effective date]. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

## Sample Letter #8

### Suspension of Providers

Sample Letter #8: Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice: Imminent Threat to Health or Safety

**Note: This letter must be sent by certified mail/return receipt or an equivalent private delivery service (such as FedEx), fax, or e-mail as required by section 226.2 (definition of “notice”) in CACFP regulations.**

Date

Provider Name

Provider Street Address

Provider City, State and Zip Code

Dear [Provider]:

This letter concerns the [brief description of the basis for the serious deficiency determination –review, parent survey, etc. and date] of your operation of the Child and Adult Care Food Program (CACFP).

#### SERIOUS DEFICIENCY DETERMINATION

Based on the [review/parent survey/etc.], [insert name of sponsoring organization] has determined that you are seriously deficient in your operation of the CACFP.

#### SUSPENSION

One of the serious deficiencies identified is the imminent threat to the health or safety of CACFP participants or the public (for details, see the description of the serious deficiencies later in this letter). Because of this imminent risk, [insert name of sponsoring organization] is suspending your CACFP participation (including all Program payments).

The suspension of CACFP participation (including all Program payments) will take effect on the date of this letter. This action is being taken pursuant to section 226.16(l)(4) in CACFP regulations (7 CFR 226.16[l][4]).

#### PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION

We are also:

- Proposing to terminate your agreement to participate in the CACFP for cause effective [date], and
- Proposing to disqualify you from future CACFP participation effective [date].

*[NOTE: The effective date for the termination/disqualification must be after the deadline for requesting an appeal. In addition, the effective date for the disqualifications should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]*

## Suspension of Providers

Sample Letter #8: Prototype Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice: Imminent Threat to Health or Safety  
Page 2

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation. If disqualified, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in any CACFP institution or facility. You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid.

These actions are being taken pursuant to section 226.16(l)(4) in CACFP regulations (7 CFR 226.16[l][4]).

### SERIOUS DEFICIENCIES

The following paragraphs detail each serious deficiency.

[Insert discussion of serious deficiencies. Each serious deficiency discussed must include a citation to the relevant serious deficiency in the regulations at 226.16(l)(2) (if the serious deficiency is not specifically listed, cite 226.16[l][2][viii] “any other circumstance related to non-performance under the sponsoring organization-day care home agreement”).

### APPEAL OF SUSPENSION, PROPOSED TERMINATION AND PROPOSED SUSPENSIONS

You may appeal the suspension, the proposed termination of your agreement for cause and your proposed disqualification. A copy of the appeal procedures is enclosed. If you decide to appeal the suspension or the proposed actions, make sure you follow the appeal procedures exactly because the failure to do so could result in the denial of your request for an appeal.

### SUMMARY

We are suspending your CACFP participation (including all Program payments). In addition, we are proposing to terminate your agreement for cause and proposing to disqualify you.

The suspension will remain in effect during the period of any appeal. However, if you request an appeal and the Administrative Review Official overturns the suspension, any valid claims for reimbursement submitted by you for the period of the suspension will be paid. As always, we will deny any portion of a claim that is determined to be invalid.

Suspension of Providers

Sample Letter #8: Prototype Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice: Imminent Threat to Health or Safety  
Page 3

If you appeal the proposed termination and the proposed disqualification, the proposed actions will not take effect until the Administrative Review Official issues a decision on the appeals. If you do not make a timely request for an appeal, your agreement will be terminated for cause on [date]. If you do not appeal your proposed disqualification, you will be disqualified from future CACFP participation effective [date] and placed on the National Disqualified List.

Sincerely,

Sponsor Employee Name & Title  
Enclosure: Appeal Procedures

cc: State agency

Sample Letter #9

Suspension of Providers

Sample Letter #9: Rescission of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification: Imminent Threat to Health or Safety (after provider wins appeal)

**Note: This letter must be sent by certified mail/return receipt or an equivalent private delivery service (such as FedEx), fax, or e-mail as required by section 226.2 (definition of "notice") in CACFP regulations.**

Date

Provider Name

Provider Street Address

City, State and Zip Code

Dear [Provider]:

This letter concerns the [date of Combined Notice] letter, which suspended your participation in the Child and Adult Care Food Program (CACFP). In that letter, we also proposed to terminate your CACFP agreement for cause and proposed to disqualify you from further CACFP participation. These actions were based on the determination in the [date of Combined Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You filed a timely appeal of the suspension, proposed termination and proposed disqualification. On [date of appeal official's decision], the Administrative Review Official issued a decision on all of the appeals. In that decision, the suspension and both of the proposed actions were overturned.

As a result, we have rescinded the serious deficiency determination as of [date of hearing official's decision] (the date of the Administrative Review Official's decision). We are also rescinding the suspension, the proposed termination of your agreement for cause and your proposed disqualification as of the same date.

Any valid claims for reimbursement submitted by you for the period of the suspension will be paid. You must submit these claims by [insert a date that will give the provider an appropriate length of time to submit these claims].

Sincerely,

Sponsor Employee Name & Title

cc: State agency

Sample Letter #10

Suspension of Providers

Sample Letter #10: Notice of Termination and Disqualification: Imminent Threat to Health or Safety (after sponsor wins appeal)

**Note: This letter must be sent by certified mail/return receipt or an equivalent private delivery service (such as FedEx), fax, or e-mail as required by section 226.2 (definition of “notice”) in CACFP regulations.**

Date  
Provider Name  
Provider Street Address  
Provider City, State and Zip Code

Dear [Provider]:

This letter concerns the [date of Combined Notice] letter, which suspended your participation in the Child and Adult Care Food Program (CACFP). In that letter, we also proposed to terminate your CACFP agreement for cause and proposed to disqualify you from further CACFP participation. These actions were based on the determination in the [date of Combined Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You filed a timely appeal of the suspension, proposed termination and proposed disqualification. On [date of appeal official’s decision], the Administrative Review Official issued a decision on all of the appeals. In that decision, the suspension and both of the proposed actions were upheld.

As a result of this decision, we are:

- Terminating your agreement to participate in the CACFP for cause effective on the date of this letter, and
- Disqualifying you from future CACFP participation effective on the date of this letter.

*[NOTE: Because the institution has already been suspended, the termination should be made effective on the date of this letter. The effective date for the disqualification should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]*

In addition, if you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation.

Upon disqualification, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider.

Sample Letter #10: Notice of Termination and Disqualification: Imminent Threat to Health or Safety (after sponsor wins appeal)

Page 2

In addition, you will not be able to serve as a principal in any CACFP institution or facility.

You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid.

These actions are being taken pursuant to section 226.16(l)(4) in CACFP regulations (7 CFR 226.16(l)(4)).

SUMMARY

We are terminating your CACFP agreement for cause and disqualifying you. You may not appeal the termination of your agreement for cause or your disqualification.

Sincerely,

Sponsor Employee Name & Title

cc: State agency



Sample Letter #11

Suspension of Providers

Sample Letter #11: Notice of Termination and Disqualification: Imminent Threat to Health or Safety (following failure to appeal)

**NOTE: This letter must be sent by certified mail/return receipt or an equivalent private delivery service (such as FedEx), fax, or e-mail as required by section 226.2 (definition of “notice”) in CACFP regulations.**

Date  
Provider Name  
Provider Street Address  
City, State and Zip Code

Dear [Provider]:

This letter concerns the [date of Combined Notice] letter, which suspended your participation in the Child and Adult Care Food Program (CACFP). In that letter, [insert name of sponsoring organization] also proposed to terminate your CACFP agreement for cause and proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [date of Combined Notice] letter (Serious Deficiency Notice) that you are seriously deficient in your operation of the CACFP.

You received the [date of Combined Notice] letter on [date received]. You had until *[insert deadline for requesting appeal]* to submit any request for an appeal of the proposed actions. No request for an appeal was submitted by that deadline.

Because the time to request an appeal has now expired, [insert name of sponsoring organization] is:

- Terminating your agreement to participate in the CACFP for cause effective on the date of this letter, and
- Disqualifying you from future CACFP participation effective on the date of this letter.

*[NOTE: Because the institution has already been suspended, the termination should be made effective on the date of this letter. The effective date for the disqualification should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.]*

Upon disqualification, you will be placed on the National Disqualified List. While on the list, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in any CACFP institution or facility.

Suspension of Providers

Sample Letter #11: Notice of Termination and Disqualification: Imminent Threat to Health or Safety (following failure to appeal)

Page 2

You will remain on the list until such time as the State agency determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid.

These actions are being taken pursuant to section 226.16(l)(4) in CACFP regulations. (7 CFR 226.16[l](4)).

SUMMARY

We are terminating your CACFP agreement for cause and disqualifying you. You may not appeal the termination of your agreement for cause or your disqualification.

Sincerely,

Sponsor Employee Name & Title

cc: State agency

## **Family Day Care Home Administrative Review (Appeal) Procedure**

All family day care home providers, that have been given a Notice of Intent to Terminate for Cause, have the right to appeal (request an administrative review).

The procedure for an appeal follows.

### **Purpose**

The appeal procedure allows day care home providers participating in the CACFP an avenue of appeal. A provider may appeal (request an administrative review) when the Family Day Care Home Sponsoring Organization (SO):

1. Proposes termination of the provider's program participation.
2. Suspends the provider's agreement for program participation.

### **Procedure**

Notification, request, and procedure for hearing:

1. Children's Hunger Alliance will send out appeal procedures annually to providers. For our web claimers we will send a broadcast message via Minute Menu with a link to the appeal procedures and for our scan form claimers we will send via mail every October, at the beginning of the fiscal year.
2. Whenever the SO takes action that will affect the participation of a provider in the CACFP the SO will inform the provider in writing of the action and the grounds upon which its decision is based. The SO will advise the provider of their right to appeal.
3. Upon receipt of the letter of proposed termination, the provider must submit to the SO a written request for appeal postmarked no later than seven calendar days from the date the notice of proposed termination was received by the provider. The original and one copy of the appeal request must be sent to the SO via certified mail. The address is as follows:

Children's Hunger Alliance  
Attention: Afonda Johnson  
370 South Fifth Street  
Columbus, OH 43215

The Program Compliance Specialist will forward a copy of the appeal request to the hearing officials via email.

4. The provider may refute the charges (show they are false), by providing written documentation to the hearing officials. In order for the provider's request for an appeal to be considered, written documentation must be filed with the hearing officials within ten calendar days of the request for appeal. The Program Compliance Specialist will forward the information to the hearing officials not later than five calendar days after the additional written documentation is filed with the SO. The Program Compliance Specialist will schedule a hearing with the hearing officials within 1 week of receiving the written documentation. The hearing officials will review only the written documentation/record unless there are extenuating circumstances, as defined by the hearing officials. If the hearing officials determine that an in-person hearing is warranted, they will notify both parties. The hearing officials will set the time and place for the review of the provider records and SO records, if there is an in-person hearing.
5. In the case of an in-person hearing, failure of the provider to appear at a scheduled hearing will forfeit the provider's right to appeal.
6. The provider may represent himself, may be represented by another person or may retain legal counsel.
7. Any information on which the sponsor's action was based will be available to the provider for review. The hearing officials will make copies of this information available to the provider, if necessary.
8. The hearing officials will make a decision based solely on information provided by the SO, the provider, and on program regulations, federal and state laws and procedures governing the CACFP.
9. The provider, the SO's executive director, and Ohio Department of Education must be notified in writing of the hearing official's final decision within thirty (30) days from the date of receipt of the request for appeal.
10. The provider may continue to operate during an appeal of proposed termination unless there is evidence of eminent threat or danger to the health or welfare of the children.
11. Providers continuing to operate while appealing the proposed termination will be reimbursed for any eligible meals served during the period of the appeal.
12. During the period of the review by the hearing official, the SO will not take action to collect or offset any overpayment noted in the termination letter and procedures governing the CACFP.
13. The decision by the hearing official is the final administrative decision. There is no further opportunity to appeal to the Ohio Department of Education.

14. If the provider loses the appeal, the termination date of the agreement is the date of the hearing official's decision.
15. The provider will be placed on the National Disqualified List of Providers for period of seven years, unless the provider owes money. In this case, the provider will remain on the list indefinitely.

### **Appeal Procedure—Notice of Suspension**

Whenever a Family Day Care Home Sponsoring Organization suspends the participation of a provider for imminent threat to the safety or health of children, the provider must be notified both verbally and in writing that its participation has been suspended, that the day care home is seriously deficient, and that the sponsoring organization proposes to terminate the provider's agreement for cause. The notification in writing must be sent by certified mail.

1. The notice must specify the serious deficiency(ies) found and of the provider's opportunity for an appeal of the proposed termination.
2. The written notice must inform the provider that participation, including all payments, will remain suspended until the appeal is conducted.
3. The written notice must inform the provider that if the hearing officials overturn the suspension, the provider may claim reimbursement for eligible meals served during the suspension.
4. The written notice must inform the provider that termination of the agreement will result in being listed on the National List of Disqualified Providers. The provider will remain on this list for a period of seven years unless the provider owes money, in which case the provider will remain on the list indefinitely.
5. The written notice must inform the provider that if the provider seeks to voluntarily terminate its agreement after receiving the notice of proposed termination, the provider will still be terminated for cause and placed on the National List of Disqualified Providers.

## **Family Day Care Home Corrective Action Procedures**

The following Corrective Action Procedures have been developed as the result of direction from the United States Department of Agriculture (USDA). All CACFP Family Day Care Home sponsors must follow these procedures effective February 1, 2011.

It is the responsibility of the Family Day Care Home Sponsor to provide sufficient training and technical assistance during the preapproval and 30-day follow-up visits to assure successful participation for all providers. Technical assistance must be documented and provided during the early stages of program participation.

Corrective Action Procedures may take into consideration the following special extenuating circumstances: new participants on the program, language barriers and literacy barriers, or other documented special circumstances. These circumstances may require extra technical assistance. Once a problem is identified, extra technical assistance must be provided and documented at least monthly. Technical assistance may continue as long as providers are showing improvement. Documentation must indicate when the provider has completed corrective action or, if no improvement is made, the provider must be declared seriously deficient and issued a Notice of Serious Deficiency.

The deficiencies listed under each Code of Federal Regulations (CFR) are common examples. This should not be interpreted as an exhaustive list. Other actions could also be considered deficiencies. Each deficiency is identified by the appropriate regulatory citation.

**CHILDREN'S HUNGER ALLIANCE**  
**Family Day Care Home – Home Visit Situations**  
**Corrective Action Guidance Addendum**

**CHILDREN'S HUNGER ALLIANCE**  
**Family Day Care Home – Home Visit Situations**  
**Corrective Action Guidance**

<b>CFR/Situation</b>	<b>Sponsor Action</b>	<b>Provider Action</b>
<p><b>Failure to Attend Annual CACFP Training- 7 CFR 226.18(b)(2); Failure to Participate in Training – 7 CFR 226.16(1)(2)(vii); Any other Circumstance Related to Nonperformance- 7 CFR 226.16 (1)(2)(ix)</b></p> <p>The provider fails to attend 2 hour training within the fiscal year.</p>	<p><b>First Offense:</b> Initiate Corrective Action by notifying provider that he/she is out of compliance with the training requirement and request a corrective action plan. ( see Corrective Action Procedure)</p> <p>Once an acceptable corrective action plan is received, they provider must follow the plan he/she submitted.</p> <p>If the provider does not follow through with the corrective action plan submitted or the provider fails to submit a corrective action plan, he/she will be found seriously deficient. At this point, contact your Regional Manager to initiate the Serious Deficiency process.</p>	<p>Provider must attend training.</p> <p>Corrective action plan should indicate training will be attended within 30 days or the next training offered to provider should be attended.</p>



**CHILDREN'S HUNGER ALLIANCE**  
**Family Day Care Home – Home Visit Situations**  
**Corrective Action Guidance**

<b>CFR/Situation</b>	<b>Sponsor Action</b>	<b>Provider Action</b>
<p>Serving Meals That Do Not Meet the Meal Pattern- 7 CFR 226.60 and 226.16 (1)(2)(iv)</p> <p>The Provider fails to serve the food required by the Child and Adult Care Food Program.</p> <p>Incomplete meal observed at a visit</p> <p>Portions served are obviously not sufficient</p> <p>Family style service foods or full portions not accepted are not offered a second time</p> <p>Provider is not serving age appropriate milk</p>	<p>During the home visit the Field Representative must do technical assistance and help the provider understand the finding. The Field Representative must initiate corrective action and obtain a corrective action plan from the provider.</p> <p>Field Representative should plan on a follow up visit if the situation is serious enough or provider was out of compliance in many areas and had several findings.</p> <p><b>*For milk findings-</b> you do not need to conduct a follow up home visit. Collect a milk receipt and disallow meals until milk receipt is received.</p> <p>After corrective action is initiated, repeat offenses may warrant a finding of serious deficiency.</p> <p>The provider must have 2 completed home visits with no repeat of problems</p>	<p>Provider must follow the meal pattern requirements exactly. Request assistance when needed.</p> <p>Provider must post the meal pattern chart distributed by CHA.</p> <p>Measure portions until familiar with appropriate amounts.</p> <p>Read manual and/or creditable foods guide.</p> <p>Offer food to children at least twice if not accepted or if portion taken the first time is small</p> <p>Read guidance on milk requirements and make sure the right milk is being purchased and served</p> <p>Make sure all foods are being served at the same time.</p>

in order to avoid serious deficiency.

## CHILDREN'S HUNGER ALLIANCE

### Family Day Care Home – Home Visit Situations Corrective Action Guidance

CFR/Situation	Sponsor Action	Provider Action
<p><b>Any other Circumstance Related to Nonperformance- CFR226.16(1)(2)(ix)</b></p> <p>The provider's home is unclean – not simply messy, but dirty to the point of being unsafe.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• Counters and tables unclean</li> <li>• Animals eating in the kitchen</li> <li>• Dirty dishes in the sink from several previous meals</li> <li>• Spoiled food on the counter</li> <li>• Medications within easy reach of the children</li> </ul> <p>Special note: If the conduct or conditions in the home may threaten the health or safety of children in care, such as illegal drugs or firearms, proceed to suspension and in to proposed termination process.</p>	<p>If the children are in immediate danger, contact the county DJFS. Report the situation to Children's Services. Notify your Regional Manager so that the suspension process can be started.</p> <p>**Whenever there is concern about the health or safety of children, report the situation to children's services and the county DJFS (if applicable) immediately.</p> <p>If the children are not in immediate danger, document the situation and technical assistance given on the home visit.</p> <p>Initiate corrective action, based on the seriousness of the situation.</p> <p>If county certified, contact county DJFS.</p> <p>Follow up with an unannounced visit in</p>	<p>Complete a corrective action detailing the steps that will be taken to correct the health and safety issue identified in the home.</p> <p>Follow plan of action immediately.</p>

two weeks.

If the home is still dirty, or if the problem continues, start the Corrective Action process, if you gave the provider technical assistance the first time. If you assigned Corrective Action the first time, the provider must be found seriously deficient.

If county certified, notify the county DJFS of the situation.

If the provider fixes the problem and it happens again, depending on the previous history of corrective action, you must move to the next step. Discuss with Regional Manager.

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<b>CFR/Situation</b>	<b>Sponsor Action</b>	<b>Provider Action</b>
<p><b>Claiming Meals Served Over Capacity/Failure to Comply with Licensing Standards- CFR 226.18(a); Failure to Keep Records- 7 CFR 226.16(1)(2)(V); Any Other Circumstance Related to Nonperformance-7 CFR 226.16(1)(2)(ix)</b></p> <p>Minute Menu Records or home visits show more children are claimed than allowed by day care licensing law, or by CACFP rules.</p> <ul style="list-style-type: none"> <li>• Attendance in/out times show number of children present is over capacity</li> <li>• Number of children observed at visit was over capacity</li> <li>• Too many children under two years old</li> <li>• Shifts of children not done correctly-overlap causes</li> </ul>	<p>During the home visit the Field Representative must do technical assistance and help the provider understand the finding. Meals must be disallowed. The Field Representative must initiate corrective action and obtain a corrective action plan from the provider.</p> <p>The Field Representative must report the over capacity to the child care licensor or licensing supervisor.</p> <p>Plan an unannounced follow up visit within 2 weeks to ensure provider is following the corrective action plan submitted.</p> <p>After corrective action is initiated, repeat offenses may warrant a finding of serious deficiency.</p> <p>The provider must have 2 completed home visits (spaced at random) with no</p>	<p>Be aware of license capacity. Take whatever measure necessary to stay within capacity or get a license exception from licensor.</p> <p>Adjust child(ren) schedules to comply with capacity rules.</p> <p>No overlap is allowed without a waiver</p> <p>Always have assistant present when capacity requires it (Type A)</p> <p>Ensure shifts are properly scheduled and executed. Shift times should be reviewed.</p> <p>Technical Assistance with parents who are repeatedly late to pick up children.</p>

overcapacity at times.

- Not all children in care are recorded on the attendance roster

repeat of problems in order to avoid serious deficiency.

If the children are in immediate danger, contact the county DJFS. Report the situation to Children's Services. Notify your Regional Manager so that the suspension process can be started.

\*\*Whenever there is concern about the health or safety of children, report the situation to children's services and the county DJFS (if applicable) immediately.

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Situation/CFR	Sponsor Action	Provider Action
<p><b>Failure to Keep Required Records- 7CFR 226.16(1)(2)(v); Failure to Maintain Required Records- 7CFR 226.18(16)(e)</b></p> <p>Meal Counts, Attendance In/Out Times and Menus are not up-to-date at the time of the visit.</p> <p>Meal Counts are recorded in advance.</p> <p>Attendance is recorded in advance.</p> <p>The provider left the paperwork somewhere else – camping, relative's home, in the vehicle, the mate took it to work...</p>	<p>During the home visit the Field Representative must do technical assistance and help the provider understand the finding. Meals must be disallowed for period of time when paperwork was not completed or completed in advance.</p> <p>If this is an <u>Attendance In/Out</u> issue, and meal counts were up to date, no disallowances are needed; however corrective action is required. (*see below for exception)</p> <p>The Field Representative must initiate corrective action and obtain a corrective action plan from the provider.</p> <p>*If provider is behind 1-2 days, has no prior corrective action issues and/or has extenuating circumstances as to why they are behind. Meals must be disallowed; however it is up to the <b>monitor's discretion</b> as to whether</p>	<p>Always keep all paperwork current through previous day</p> <p>Type A Providers must keep meal counts and menus at point of service.</p> <p>Never record attendance or meal counts in advance</p> <p>*If menus, meal counts, and attendance are not entered in the Minute Menu systems, they must be recorded on the <b>Daily Meal Worksheet.</b></p>

only technical assistance is given. Technical Assistance is not required and corrective action can be initiated at any point. Technical Assistance should not be used in every case and monitor must choose wisely as to whether they give T/A or assign Corrective Action. Once a provider has been given technical assistance in place of a finding, he/she must submit a corrective action plan should there be a compliance issue at any point in the future. If provider is given technical assistance, a follow up is not required.

If provider was over 3 days behind and/or was assigned corrective action, plan an unannounced follow up visit within 2 weeks to ensure provider is following the corrective action plan submitted.

After corrective action is initiated, repeat offenses may warrant a finding of serious deficiency.

The provider must have 2 completed home visits (spaced at random) with no repeat of problems in order to avoid serious deficiency.

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<b>Situation/CFR</b>	<b>Sponsor Action</b>	<b>Provider Action</b>
<p>Failure to Comply with Monitoring Requirements- 7CFR 226.18(b)(8);                      Failure to Keep Records- 7CFR 226.16(1)(2)(v); Submission of False Claims for Reimbursement- 7 CFR226.16(1)(2)(ii); Any Other Circumstance Related to Nonperformance- 7 CFR 226.16(1)(2)(ix)</p>	<p>During the home visit the Field Representative must do technical assistance and help the provider understand the finding. Meals must be disallowed.</p> <p>The Field Representative must initiate corrective action and obtain a corrective action plan from the provider.</p>	<p>Provider must always notify monitor when he/she will not be home, does not have children for the day and/or a specific meal/meals, closed for the day, or will be serving a meal/snack away at a field trip.</p> <p>Notify monitor immediately if meal times change or types of meal being claimed/meal claiming patterns change.</p>
<p>Provider is not home for attempted home visit and no prior notification given to monitor.</p> <p>Not home for attempted home visit, but children claimed</p> <p>Meal observation missed by monitor because it was served earlier or later than on agreement, no prior notification</p> <p>Assistant/Substitute Caregiver did not have access to CACFP paperwork or did not know how to keep CACFP</p>	<p>Plan an unannounced follow up visit within 2 weeks to ensure provider is following the corrective action plan submitted.</p> <p>After corrective action is initiated, repeat offenses may warrant a finding of serious deficiency.</p> <p>The provider must have 2 completed home visits (spaced at random) with no repeat of problems in order to avoid serious deficiency.</p>	<p>Allow monitor in to complete home visit</p> <p>Assistants/Substitute Caregivers must have access to all records and know food program requirements.</p> <p>NOTE: Reimbursement for any meals that cannot be verified must be denied on the claim.</p>



records.

Provider did not allow monitor in to conduct home visit.

Provider is leaving when you arrive for an unannounced home visit – provider states he/she is in a hurry and must leave right away.

# CHILDREN'S HUNGER ALLIANCE

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<p>Submission of False Claims- 7CFR 226.16(1)(2)(ii); Failure to Keep Required Records- 7 CFR 226.16(1)(2)(v); Noncompliance with Program Meal Pattern- 7 CFR 226.16(1)(2)(iv); Any Other Circumstance Related to Nonperformance- 7 CFR 226.16(1)(2)(ix)</p> <p>*Foods observed at a visit did not match the food on the claim.</p> <p>*Children observed at visit did not match those on the claim and/or attendance record.</p> <p>*Meals claimed for children who were not observed during visit.</p> <p>Any particular meal not served on visit day, but served every other day. Particular attention to dinner, evening, and weekend claiming.</p>	<p>Deduct meals of the children with discrepancies or where appropriate.</p> <p>*Minute Menu catches these discrepancies and disallowances are made. Repeat patterns brought to field staff's attention may require corrective action and further monitoring. Follow steps below should this happen.</p> <p>Conduct parent verifications, if appropriate.</p> <p>**These situations <u>require</u> a parent verification. There are times when a reasonable explanation is given, such as spring break, winter break, or snow days. If reasonable explanation is given, documentation of the explanation is required on the home visit form and parent verification may not be necessary.</p>	<p>Claim only foods that are being served. Confirm with monitor the food number being documented to prevent discrepancies.</p> <p>Record meal counts and in/out times by the end of the day and point of service for Type A to avoid discrepancies</p> <p>Claim only children that were served at a meal and/or snack.</p> <p>Meals requiring shifts should be used appropriately and within food program guidelines. Shifts should not be used as a way to avoid capacity requirements.</p> <p>If there will be no children in care for a meal/snack or the day, notify monitor right away.</p> <p>Make sure parents understand parent verifications are a requirement of USDA/ODE, so if a staff member from</p>

<p>The in/out times on the attendance do not match what was observed or usually claimed.</p> <p>Some children have gone so unable to observe a shift that is always claimed and/or shifting not able to be observed.</p> <p><b>**Fewer or no kids present when visit attempted for a meal that is usually claimed.</b></p> <p><b>**Enrolled children are not present during a home visit or fewer children are present than are normally claimed.</b></p> <p><b>**5 Day Reconciliation shows more children claimed in past 5 days than present during the home visit being conducted.</b></p>	<p>During the home visit the Field Representative must do technical assistance and help the provider understand the finding.</p> <p>The Field Representative must initiate corrective action and obtain a corrective action plan from the provider.</p> <p>Plan an unannounced follow up visit within 2 weeks to ensure provider is following the corrective action plan submitted.</p> <p>After corrective action is initiated, repeat offenses may warrant a finding of serious deficiency.</p> <p>The provider must have 2 completed home visits (spaced at random) with no repeat of problems in order to avoid serious deficiency.</p>	<p>the sponsor contacts parents, they need to respond and cooperate.</p> <p>Parent contact information must be up to date and correct.</p> <p><b>NOTE:</b> Reimbursement for any meals that cannot be verified must be denied on the claim.</p>
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Situation/CFR	Sponsor Action	Provider Action
<p>Claiming Meals not Served to Participants- 7 CFR 226.16(1)(2)(ii) and 226.18(e) and 226.18(b)(4); Submission of False Claims- 7 CFR 226.16 (1)(2)(ii); Failure to Keep Records – 7CFR 226.16(1)(2)(v); Any Other Circumstance Related to Nonperformance- 7 CFR 226.16(1)(2)(ix)</p> <p>Children claimed when no longer in care.</p> <p>Non-existent children claimed</p> <p>Meals claimed for children for times/days parents say they were not in care</p>	<p>Conduct parent verifications to ascertain and prove the alleged misrepresentation of claims.</p> <p>Disallow meals/determine what meals/amount of money the provider owes back to the sponsor.</p> <p>Provider must be found seriously deficient due to the severity of this finding.</p> <p>Increased unannounced follow up visits must be conducted, if provider submits an acceptable corrective action plan and is allowed to continue participation.</p> <p>Monitor may also choose to increase the number of times parent verifications are conducted.</p> <p>Reoccurrence after corrective action is proposed termination</p>	<p>Record accurate in/out times and meal counts. Never claim children when they are gone, even temporarily.</p>

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Situation/CFR	Sponsor Action	Provider Action
<p><b>Any Other Circumstance Related to Nonperformance- CFR 226.16(1)(2)(ix)</b></p> <p>Provider did not notify sponsor (monitor) of changes in license, including revocations, suspensions, reduction in capacity, name change and address/phone number changes.</p>	<p>The Field Representative must do technical assistance and help the provider understand the finding.</p> <p>Meals must be deducted retroactive to discrepancy. Confer with licensing agency to determine validity of changes.</p> <p>The Field Representative must initiate corrective action and obtain a corrective action plan from the provider.</p> <p>Plan an unannounced follow up visit within 2 weeks, if initial attempt at conducting a home visit was unsuccessful, to ensure provider is following the corrective action plan submitted.</p> <p>After corrective action is initiated, repeat offenses may warrant a finding of serious deficiency.</p>	<p>Submit a valid license immediately</p> <p>Notify sponsor (monitor) of changes in license capacity, address, name, etc immediately</p>

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<p><b>Any Other Circumstance Related to Nonperformance- CFR 226.16(1)(2)(ix)</b></p> <p>The monitor suspects child abuse, neglect or sexual abuse may be occurring in the day care home.</p> <p>The monitor observes the abuse or otherwise sees some signs of abuse. Abuse may be reported by a parent, local authorities, another provider, a member of the family...</p>	<p>The alleged abuse is reported by phone to Children's Services by the person observing the alleged abuse.</p> <p>Document on a home visit form or technical assistance form.</p> <p>If the children are in immediate danger, contact the county DJFS and Children's Services right away while at home visit.</p> <p>Notify Regional Manager so that the suspension process can be started.</p> <p>Regional Manager will keep in contact with DJFS and Children's Services to determine if the alleged abuse was substantiated. If unsubstantiated, monitor should conduct unannounced home visit within a month.</p>	<p>Cooperate with sponsor and county agencies as investigations are conducted.</p>

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<b>Situation/CFR</b>	<b>Sponsor Action</b>	<b>Provider Action</b>
<p><b>Failure to Comply with Civil Rights Laws- 266.6(b)(18)(iii)(E)(4); Any Other Circumstance Related to Nonperformance- 7 CFR 226.16(1)(2)(ix)</b></p> <p>Refuse care for specific child due to age, special needs, etc.</p>	<p>Provide resources and technical assistance.</p> <p>If provider repeats finding, corrective action must be initiated.</p>	<p>Provider must follow Civil Rights laws and cannot discriminate.</p>

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<p><b>Any Other Circumstances Related to Nonperformance- 7 CFR 226.16(1)(2)(ix)</b></p> <p>Tiering- did not notify sponsor of changes that affect tier level- for example, income or family size</p>	<p>Reclassify and/or deduct meals</p> <p>Provide technical assistance</p> <p>Initiate Corrective Action.</p> <p>Repeat occurrence after corrective action will result in serious deficiency.</p>	<p>Notify sponsor (monitor) when changes occur that will affect your tier, such as income or family size immediately.</p>



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<p><b>Any Other Circumstances Related to Nonperformance- 7 CFR 226.16(1)(2)(ix)</b></p> <p>Parent signatures on enrollment forms and renewal information not valid</p>	<p>Conduct parent verifications to verify validity of enrollment or renewal.</p> <p>Deduct all meals for children involved.</p> <p>Provider must be found seriously deficient and a corrective action plan must be submitted by the provider.</p> <p>Increased home visits and parent verifications will occur.</p>	<p>If money is owed, provider must repay.</p> <p>Submit valid enrollments or documentation.</p> <p>Valid signatures must always be on enrollment forms.</p>