

Nutrition Programs Division
Illinois State Board of Education
100 North First Street W270
Springfield, Illinois 62777-0001



CACFP

*Building for
the Future*

Child and Adult Care Food Program

Day Care Homes Serious Deficiency

July 2009

1100 SERIOUS DEFICIENCY PROCESS

1110 PROCEDURES

1111 Termination of Agreement for Cause/Convenience

1112 Actions That May Lead to Serious Deficiency

1113 Procedures for Household Contact

- *Sample 1/1113* Household Contact Cover Memo
- *Sample 2/1113* Household Contact Questionnaire
- *Sample 3/1113* Household Telephone Contact Script

1114 Serious Deficiency Notification Procedures

Sample Letters

- *Letter 1/1114* Notice of Noncompliance & Corrective Action
- *Letter 2/1114* Notice of Serious Deficiency
- *Letter 3/1114* Successful Corrective Action, Rescission of Serious Deficiency
- *Letter 4/1114* Notice of Proposed Termination & Proposed Disqualification
- *Letter 5/1114* Rescission of Serious Deficiency, proposed Termination, and Proposed Disqualification (after provider wins appeal)
- *Letter 6/1114* Notice of Termination & Disqualification (after sponsor wins)
- *Letter 7/1114* Notice of Termination & Disqualification (following failure to appeal)

1115 Suspension of Participation

Sample Letters

- *Letter 8/1115* Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice: Imminent Threat to Health or Safety
- *Letter 9/1115* Rescission of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification: Imminent Threat to Health or Safety (after provider wins appeal)
- *Letter 10/1115* Notice of Termination and Disqualification: Imminent Threat to Health or Safety (after sponsor wins appeal)
- *Letter 11/1115* Notice of Termination and Disqualification: Imminent Threat to Health or Safety (following failure to appeal)

1116 Administrative Review (Appeal) Process

1117 Placement on the National Disqualified List

1118 Guidelines for Re-Entry to the Child and Adult Care Food Program

1120 SERIOUS DEFICIENCY LOG

1100 SERIOUS DEFICIENCY PROCESS

Overview

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 sponsoring organization. The agreement must specify the rights and responsibilities of both parties which include, but are not limited to, the right of the sponsoring organization to terminate the agreement for cause and the requirement that the day care home comply with the federal regulations governing the program.

Public Law 106-224, the Agricultural Risk Protection Act of 2000 (ARPA), made significant changes to the procedures involved in terminating participation of day care homes (providers) in the CACFP. For the first time, it gives providers the opportunity to request an Administrative Review (also referred to as an Appeal) *prior* to termination of their agreement to participate by the sponsoring organization. This appeal right is only required when the termination is for **cause**. Another form of termination, which is termination for **convenience**, is permitted, and it does not require the sponsors to offer an appeal to the provider in these situations.

Sponsoring organizations are required to conduct an administrative review process. The Illinois State Board of Education (ISBE) does not offer a state-level administrative review. Each 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, and the suspension of participation and provider appeal rights outlined in this document.

1110 PROCEDURES

1111 Termination of Agreement for Cause/Convenience

A sponsoring organization (sponsor) must initiate action to terminate the agreement of a day care home (provider) for **cause** in the operation of the Child and Adult Care Food Program if the sponsor determines the provider committed one or more serious deficiency(ies) 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 Part 226.16(l)(2)(i).
2. Submission of false claims for reimbursement. 7 CFR Part 226.16(l)(2)(ii).
3. Simultaneous participation under more than one sponsoring organization. 7 CFR Part 226.16 (l)(2)(iii).
4. Serving meals that do not meet the meal pattern. 7 CFR Part 226.16(l)(2)(iv).
5. Failure to keep required records (meals, attendance, etc). 7 CFR Part 226.16(l)(2)(v).
6. Conduct or conditions that threaten the health or safety of the children in care, or the public health or safety. 7 CFR Part 226.16(l)(2)(vi).
7. A determination that the provider has been convicted of any activity that occurred during the past seven years and 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 agency, or the concealment of such a conviction. 7 CFR Part 226.16(l)(2)(vii).
8. Failure to participate in training. 7 CFR Part 226.16(l)(2)(viii).
9. Any other circumstance related to non-performance under the sponsor/provider agreement as specified by the sponsor or the State agency. 7 CFR Part 226.16(l)(2)(ix).

1112 Actions That May Lead to Serious Deficiency

This document is an attachment to the Serious Deficiency Flow Chart (see Attachment 1112A) and has been developed by the Illinois State Board of Education (ISBE). The actions prescribed in this document must be followed by Child and Adult Care Food Program sponsoring organizations to ensure all day care home providers are treated consistently.

It is very important that sponsoring organizations adhere to this process due to the strict requirements of terminating a day care home provider for seven (7) years. Monitoring staff from ISBE will review sponsoring organization's procedures to ensure this process is followed.

It is the responsibility of sponsoring organizations to provide sufficient training and technical assistance during the introductory review. Sufficient training is necessary during the pre-approval and 30-day follow-up visit to enable the provider to fully understand the program requirements and demonstrate their ability to perform the functions to be in compliance with the program.

Training is required annually thereafter and technical assistance can be offered at monitor visits or as needed. Documentation of technical assistance and training of providers is required.

1113 Procedures for Household Contact

Purpose: To develop a system sponsoring organizations (SO) will use for household contacts in its monitoring of family day care homes.

Description: Household contact means a contact made by a sponsoring organization or a State agency to an adult member of a household with a child in a family day care home. The purpose of the contact is to verify the attendance and enrollment of the child and the specific meal service(s) the child routinely receives while in care.

Sponsoring organizations should contact households when one or more of the following situations occur:

- Meal counts are inconsistent with attendance records.
- A large number of weekend, night, and/or holiday meals and snacks are claimed for reimbursement.
- Prior five-day meal counts are a great deal higher than the attendance on the day of review.
- As a result of the five-day reconciliation, a significant number of meals served and claimed do not correspond to the information on the enrollment forms.
- A valid reason for block claiming **cannot** be determined.

Procedures

- Ensure sponsoring organizations include parent/guardian contact information on the mandatory enrollment forms.
- Decide if the household contact will be conducted by telephone or mail via United States Postal Service (USPS).
- Complete a copy of the telephone script for every person if the contact will be made via the telephone.
- Complete a copy of the household contact memo and questionnaire for each contact if the contact will be made via mail. The memo must include a due date.
- A copy of the script or the contact memo and the contact(s) will be kept on file and should include the names of all SO staff that worked on the household contact. Ensure all information received is documented and maintained on file.
- Send household contacts via certified United States Postal Service (USPS) mail.
- Collect and analyze the information submitted by the households within one week of receipt.
- Determine if there is a non-compliance issue with the day care home. Is the home in compliance? If not, does the non-compliance require some type of Corrective Action Plan?
- Send appropriate correspondence to the home.
- Ensure all corrective action is timely.

Sponsoring organization will be required to adapt this procedure to its own organization and will be required to amend their Management Plan. A sponsoring organization may develop its own household contact memos, questionnaires, and scripts; however, these must be submitted to the Illinois State Board of Education for approval. (See Attachments 1113A-C for sample memos, etc.).

—SAMPLE 1/1113—
HOUSEHOLD CONTACT COVER MEMO

To: Parents/guardians of children enrolled at <NAME OF PROVIDER'S DAY CARE HOME>

From: <NAME OF SPONSORING ORGANIZATION>

Date: <CURRENT DATE>

Re: Child and Adult Care Food Program Household Contact

Your child(ren)'s day care home participates in the Child and Adult Care Food Program (CACFP). Through the CACFP, your child(ren) should receive United States Department of Agriculture (USDA)-approved meals and snacks.

In order to measure the success of this program, [insert the name of the sponsoring organization] requests you take a few minutes to help us do a better job for your child(ren). Please complete the enclosed *CACFP Household Contact Form*. Your prompt response (within five days) ensures two things:

1. Your child(ren) will continue to receive nutritious meals and snacks.
2. Your caregiver will continue to receive financial support from the USDA.

Please read and complete the form. After signing and dating the form, please return it in the enclosed self-addressed, stamped envelope.

Your cooperation will help the CACFP provide quality service to the day care homes participating in the program.

Thank you for your time and cooperation.

<p>In accordance with Federal law and the U.S. Department of Agriculture (USDA) policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer.</p>
--

**—SAMPLE 2/1113—
HOUSEHOLD CONTACT QUESTIONNAIRE**

For Office Use Only
Name of Provider _____ Site Number. _____
Date Completed _____ Written _____ or Telephone _____
Form Completed By _____
Child's Name: _____

Parent/guardian: Please complete information below.

Please complete the calendar below for the month of _____. Indicate the days your child was in attendance by marking with an X.

Week of	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

1. What are the normal days your child is in attendance? Please circle: SU M T W TH F SA
2. List the normal hours your child is in attendance: _____
3. If your child goes to school and leaves from the day care home, list the time the child leaves for school and list the time the child returns from school to the day care home: _____

4. What meals/snacks does your child normally eat at the home? Please check all that apply.
Early snack ___ Breakfast ___ AM snack ___ Lunch ___ PM snack ___ Supper ___ Evening snack ___
5. Did any exceptions occur during the above month? Please explain. _____

PENALTIES FOR MISREPRESENTATION: I certify all of the above information is true and correct. I understand this information is being given for the receipt of Federal funds, authorized officials may verify the information, and deliberate misrepresentation may subject me to prosecution under applicable State and Federal laws.	
Signature of Parent/Guardian _____	Date _____
Printed Name _____	Home Phone _____
Address _____	Work Phone _____

—SAMPLE 3/1113—
HOUSEHOLD TELEPHONE CONTACT SCRIPT

Good morning (or good afternoon). This is (name) _____

from (name of your organization)_____

Is [Mr., Mrs., Ms.] _____ available?

I work with the Child and Adult Care Food Program which is a federally funded program that enables your child(ren)'s day care home provider to serve nutritious meals to the children in his/her care. Occasionally, we review records to ensure accuracy and to maintain the integrity of the program. To assist us, I need to ask you a few questions about (name of child or children _____)'s attendance and meal participation at (name of provider _____)'s day care home.

Ask questions and complete CACFP Household Contact Questionnaire at this time.

Do you have any questions or comments about the Child and Adult Care Food Program?

Thank you for your time.

I appreciate your cooperation.

DATE OF CONTACT _____ TIME OF CONTACT _____

1114 Serious Deficiency Notification Procedures

If the sponsor determines that the day care home has committed one or more serious deficiencies outlined in Sub-section 1110.1, the sponsor must use the following procedures to provide the provider notice of the serious deficiency(ies) and offer it an opportunity to take corrective action. If, however, the serious deficiency(ies) constitutes an imminent threat to the health or safety of the occupants, or the day care home has engaged in activities that threaten the public health or safety, the sponsor must follow the procedures outlined in Sub-section 1115, *Suspension of Participation for Day Care Homes*.

Procedures

1. The sponsor will thoroughly investigate and document the serious deficiency(ies). This process may include, but is not limited to, household contact for the verification of enrollment and attendance information. **Refer to Sample Letter 1 (Letter 1/1114) Notice of Noncompliance and Corrective Action.** This letter is used when issues arise outside the monitoring review process. This allows the sponsor to track how many times the provider has seriously deficient problems.

2. The sponsor will notify the provider, in writing, that he/she has been found to be seriously deficient. **Refer to Sample Letter 2 (Letter 2/1114) Notice of Serious Deficiency.** *The sponsor must provide a copy of the Notice of Serious Deficiency to the state agency.*

The notice will include:

- Serious deficiency(ies)
- Actions to be taken by the provider to correct the deficiency(ies)
- Allotted time to correct the serious deficiency(ies) (This must be as soon as possible, but must not exceed 30 days.)
- Notification that the serious deficiency determination is not subject to Administrative Review (Appeal)
- Notification 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
- Notification 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 on the National Disqualified List

3. The sponsor will provide technical assistance as appropriate in the areas identified as serious deficiency(ies).

Successful Corrective Action

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 (Letter 3/1114) Successful Corrective Action, Rescission of Serious Deficiency.** *The sponsor must provide a copy of this notice to the state agency.*

Unsuccessful Corrective Action—Proposed Termination and Proposed Disqualification

If the provider fails to implement timely corrective action to fully and permanently correct the serious deficiency (ies) cited, the sponsor will issue a notice proposing to terminate the provider's agreement for cause. **Refer to Sample Letter 4 (Letter 4/1114) Notice of Proposed Termination and Proposed Disqualification.** *The sponsor will provide a copy of this notice to the state agency.*

The notice will:

- 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.
- Inform the provider he/she may continue to participate and receive program reimbursement for eligible meals served until the appeal concludes.
- Inform the provider termination of the agreement will result in the day care home's termination for cause and disqualification.
- 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.

If an Administrative Review (Appeal) is requested, the sponsor will follow ISBE's Administrative Review (Appeal) procedures for family day care homes. If the Administrative Review (Appeal) Official overturns the sponsor's proposed actions, formal notification will be used to rescind the serious deficiency. **Refer to Sample Letter 5 (Letter 5/1114) Rescission of Serious Deficiency, Proposed Termination, and Proposed Disqualification.** *The sponsor will provide a copy of this notice to the state agency.*

Agreement Termination and Disqualification

The sponsor will immediately terminate the day care home's agreement and disqualify the provider when the Administrative Review (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 (Letter 6/1114) Notice of Termination and Disqualification (after sponsor wins appeal).** *The sponsor will provide a copy of this notice to the state agency.*

If the provider does not request an Administrative Review, the sponsor will immediately terminate the provider's agreement and disqualify the home when the opportunity to request the Administrative Review (Appeal) expires. At the same time, the Notice of Termination and Disqualification is issued to the provider. **Refer to Sample Letter 7 (Letter 7/1114) Notice of Termination and Disqualification (following failure to appeal).** *The sponsor will provide a copy of this notice to the state agency.*

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

Program Payments During Serious Deficiency Process

The sponsor will continue to pay any **valid** 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).

Sample Letter 1/1114

Sample Letter 1: Notice of Noncompliance and Corrective Action

NOTE: This letter should be used when issues arise outside the monitoring review process. It will allow the sponsor to track how many times the provider has seriously deficient problems.

Corrective Action

<DATE>

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

Dear <PROVIDER>:

The following may be cause for termination of the agreement to participate in the Child and Adult Care Food Program (CACFP). **Sponsor must pick the areas that support their concerns.**

1. Submission of false information on the application (Sponsor/Provider Agreement) (7 CFR Part 226.16[1][2][i])
2. Submission of false Claims for Reimbursement (7 CFR Part 226.16[1][2][ii])
3. Simultaneous participation under more than one sponsoring organization (7 CFR Part 226.16[1][2][iii])
4. Noncompliance with the program meal pattern (7 CFR Part 226.16[1][2][iv])
5. Failure to keep required records (7 CFR Part 226.16[1][2][v])
6. Conduct or conditions that threaten the health or safety of a child(ren) in care or the public's health or safety (7 CFR Part 226.16[1][2][vi])
7. A determination that the provider has been convicted of any activity that occurred during the past seven years and 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 Part 226.16[1][2][vii])
8. Failure to participate in training (7 CFR Part 226.16[1][2][viii])
9. Any other circumstance related to non-performance under the Sponsor/Provider Agreement as specified by the sponsor or the state agency. This may include, but not be limited to, continuous submission of late and/or incomplete Claims for Reimbursement and failure to comply with civil rights laws. (7 CFR Part 226.16[1][2][ix])

Sample Letter 1/1114—Notice of Noncompliance and Corrective Action
Page 2

Specify the type of noncompliance:

The following corrective action must be submitted by <DATE>:

- 1.
- 2.
- 3.

Technical assistance to prevent recurrence of the problem(s) was provided at monitoring visits and/or training and/or on <DATE>

Because of the areas of noncompliance noted, your CACFP day care operation will be closely monitored and parents may be contacted for verification of information. Failure to permanently implement the corrective action will result in a Notice of Serious Deficiency and may result in termination of your agreement for cause.

During the initial corrective action process, you will not be allowed to transfer to another sponsor. If you withdraw from the CACFP before the process is completed, you will not be able to participate in the CACFP with any sponsor in any state.

We reserve the right to also issue a Notice of Serious Deficiency and begin the termination process for cause. If you are terminated for cause, your name will be forwarded for placement on the National Disqualified List. You will have the right to appeal the Intent to Terminate for Cause.

Sincerely,

<SPONSOR EMPLOYEE NAME AND TITLE>

cc: Illinois State Board of Education

Sample Letter 2/1114

Sample Letter 2/1114: Notice of Serious Deficiency

NOTE: This letter must be sent by certified mail with a return receipt via United States Postal Service or an equivalent private delivery service (such as Federal Express), facsimile, or email as required by 7 CFR 226.2 (definition of the term NOTICE) in the regulations.

Notice of Serious Deficiency

<DATE>

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

Dear <PROVIDER>:

This letter concerns the <BRIEF DESCRIPTION OF THE BASIS FOR THE SERIOUS DEFICIENCY DETERMINATION—REVIEW, HOUSEHOLD CONTACT, ETC. AND DATE>.

Based on the above, we have determined you are seriously deficient in your operation of the Child and Adult Care Food Program (CACFP). If you do not fully and permanently correct all of the serious deficiencies and submit written 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 (NDL). While on the NDL, 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 NDL until such time as the State agency determines the serious deficiencies have been corrected or until seven years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the NDL until the debt has been repaid.

These actions are being taken pursuant to 7 CFR Part 226.16(l) of CACFP regulations.

<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)(ix) "ANY OTHER CIRCUMSTANCE RELATED TO NONPERFORMANCE UNDER THE SPONSORING ORGANIZATION-DAY CARE HOME AGREEMENT.">

Sample Letter 2/1114—Notice of Serious Deficiency
Page 2

Corrective Action

You must provide us written documentation that shows **how** you have taken the corrected steps for each of the serious deficiencies (problems cited in this letter). The documentation must be received (not just postmarked) by *<CORRECTIVE ACTION DEADLINE>*.

If we do not receive the documentation of your corrective action by the due date, or if it is determined you did not provide adequate written actions taken to 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.

Summary

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.

If we receive the documentation of your corrective action by the due date and determine it **fully and permanently corrects** all of the serious deficiencies, then an unannounced Follow-Up Review will be conducted to verify the adequacy of the corrective action. If we find in 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 AND TITLE>

cc: Illinois State Board of Education

Sample Letter 3/1114

Sample Letter 3/1114—Successful Corrective Action, Rescission of Serious Deficiency

NOTE: This letter must be sent by certified mail with a return receipt via United States Postal Service or an equivalent private delivery service (such as Federal Express), facsimile, or email as required by 7 CFR Part 226.2 (definition of the term NOTICE) in the regulations.

Rescission of Serious Deficiency

<DATE>

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

Dear <PROVIDER>:

This letter concerns <SPONSOR'S NAME> determination of your corrective action response to the Notice of Serious Deficiency dated <DATE OF LETTER>. Your response was received within the required time frame. You sent written actions detailing how you have permanently corrected all the serious deficiencies.

Serious Deficiency Determination Rescinded

Based on the review of the documentation and the results of an unannounced Follow-Up Review conducted on <DATE>, we have accepted your actions that have fully corrected the serious deficiencies cited in the Serious Deficiency Notice. **As a result, we have rescinded the serious deficiency determination as of the date of this letter. This also means we will not propose to terminate your agreement for cause based on this serious deficiency finding or propose to disqualify you on that basis.**

Summary

If in any future review monitoring staff discovers one or any of these same 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 AND TITLE>

cc: Illinois State Board of Education

Sample Letter 4/1114

Sample Letter 4/1114—Notice of Proposed Termination and Proposed Disqualification

NOTE: This letter must be sent by certified mail with a return receipt via United States Postal Service or an equivalent private delivery service (such as Federal Express), facsimile, or email as required by 7 CFR Part 226.2 (definition of the term NOTICE) in the regulations.

Notice of Proposed Termination and Proposed Disqualification

<DATE>

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

Dear <PROVIDER>:

This letter concerns the determination in the <DATE OF NOTICE OF SERIOUS DEFICIENCY> letter (Notice of Serious Deficiency) that you are seriously deficient in your operation of the Child and Adult Care Food Program (CACFP).

<CHOOSE ONE OF THE THREE SCENARIOS—INSERT THE APPLICABLE PARAGRAPH, THEN DELETE THE OTHER TWO PARAGRAPHS>

1. We received your documentation sent to us detailing the corrective actions taken to correct these serious deficiencies on <DATE>, before the corrective action deadline. The corrective action did not detail how you will correct the following problems listed in the Notice of Seriously Deficiency letter dated <DATE OF LETTER>. <CITE REGULATIONS FOR EACH SERIOUS DEFICIENCY; COPY THIS INFORMATION FROM THE NOTICE OF SERIOUS DEFICIENCY LETTER.>
2. We did not receive any written Corrective Action Plan that was due to <NAME OF SPONSOR> by <DUE DATE OF CORRECTIVE ACTION PLAN>.
3. Based on our Follow-Up Review conducted on <DATE OF REVIEW>, it has been determined you have not fully nor permanently corrected the serious deficiencies cited in the Notice of Serious Deficiency. <LIST THE SERIOUS DEFICIENCIES NOT CORRECTED.>

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>.

Sample Letter 4/1114—Notice of Proposed Termination and Proposed Disqualification

Page 2

[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 (NDL). While on the NDL, 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 NDL until such time as the State agency determines the serious deficiencies have been corrected or until seven years after your disqualification.

However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the National Disqualified List until the debt has been repaid.

These actions are being taken pursuant to CACFP regulation 7 CFR Part 22616(l).

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.

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 appeal. 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 for seven years.

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 AND TITLE>

enc: Appeal Procedures

cc: Illinois State Board of Education

Sample Letter 5/1114

Sample Letter 5/1114—Rescission of Serious Deficiency, Proposed Termination, and Proposed Disqualification (After Provider Wins Appeal)

NOTE: This letter must be sent by certified mail with a return receipt via United States Postal Service or an equivalent private delivery service (such as Federal Express), facsimile, or email as required by 7 CFR Part 226.2 (definition of term NOTICE) in the regulations.

Rescission of Serious Deficiency, Proposed Termination, and Proposed Disqualification

<DATE>

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

Dear <PROVIDER>:

This letter concerns the <DATE OF NOTICE OF PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION> letter (Notice of Proposed Termination and 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 the <DATE OF NOTICE OF SERIOUS DEFICIENCY> letter (Notice of Serious Deficiency) 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 Administrative Review Official issued a decision on the appeal. In that decision, both of our proposed actions were overturned.

Serious Deficiency Determination Rescinded

As a result, we rescinded the serious deficiency determination as of <DATE OF REVIEW OFFICIAL'S DECISION> (the date of the Administrative Review Official's decision). We are also rescinding the proposed termination of your agreement for cause and your proposed disqualification as of the same date.

Sincerely,

<SPONSOR EMPLOYEE NAME AND TITLE>

cc: Illinois State Board of Education

Sample Letter 6/1114

Sample Letter 6/1114—*Notice of Termination and Disqualification (After Sponsor Wins Appeal)*

Note: This letter must be sent by certified mail with a return receipt via United States Postal Service or an equivalent private delivery service (such as Federal Express), facsimile, or email as required by 7 CFR Part 226.2 (definition of the term NOTICE) in the regulations.

Notice of Termination and Disqualification

<DATE>

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

Dear <PROVIDER>:

This letter concerns the <DATE OF NOTICE OF PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION> letter (Notice of Proposed Termination and 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 the <DATE OF NOTICE OF SERIOUS DEFICIENCY> letter (Notice of Serious Deficiency) 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 APPEAL OFFICIAL'S DECISION>, the Administrative Review Official issued a decision on the appeal. In that decision, both of our proposed actions were upheld.

Termination and Disqualification

As a result, <INSERT NAME OF SPONSORING ORGANIZATION> is:

- 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.

Sample Letter 6/1114—Notice of Termination and Disqualification (After Sponsor Wins Appeal)

Page 2

Upon disqualification, you will be placed on the National Disqualified List (NDL). While on the NDL, 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 National Disqualified List until such time as the State agency determines the serious deficiencies have been corrected or until seven years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the National Disqualified List until the debt has been repaid. These actions are being taken pursuant to CACFP regulation 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>. Any valid Claims for Reimbursement submitted by you for this period will be paid as long as the claims are submitted within the normal timeframes.

Sincerely,

<SPONSOR EMPLOYEE NAME AND TITLE>

cc: Illinois State Board of Education

Sample Letter 7/1114

Sample Letter 7/1114—*Notice of Termination and Disqualification (Following Failure to Appeal)*

NOTE: This letter must be sent by certified mail with a return receipt via United States Postal Service or an equivalent private delivery service (such as Federal Express), facsimile, or email as required by 7 CFR Part 226.2 (definition of the term NOTICE) in the regulations

Notice of Termination and Disqualification

<DATE>

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

Dear <PROVIDER>:

This letter concerns the <DATE OF NOTICE OF PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION> letter (Notice of Proposed Termination and Proposed Disqualification), which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause. In that letter, <INSERT NAME OF SPONSORING ORGANIZATION> also proposed to disqualify you from further CACFP participation. These actions were based on the determination in the <DATE OF SERIOUS DEFICIENCY NOTICE> letter (Notice of Serious Deficiency) that you are seriously deficient in your operation of the CACFP.

You received the Notice of Proposed Termination and Proposed Disqualification on <DATE RECEIVED>. You had until <INSERT DEADLINE FOR REQUESTING AN APPEAL> to submit any requests for appeals 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.

Sample Letter 7/1114—Notice of Termination and Disqualification (Following Failure to Appeal)

Page 2

Upon disqualification, you will be placed on the National Disqualified List (NDL). While on the NDL, 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 NDL until such time as the State agency determines the serious deficiencies have been corrected or until seven years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the National Disqualified List until the debt has been repaid.

These actions are being taken pursuant to section 226.16 of CACFP regulation 7 CFR Part 226.(l)(4).

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 as long as you submit the claims within the normal time frame.

Sincerely,

<SPONSOR EMPLOYEE NAME AND TITLE>

cc: Illinois State Board of Education

1115 Suspension of Participation

Suspension of a provider's participation in the CACFP will occur 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's health or safety. Imminent threats to health or safety constitute serious deficiencies; however, the sponsor will use the procedures in this section to provide notice of suspension and proposed termination to the provider.

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 Children and Family Services to revoke the home's license.

If the sponsor determines there is an imminent threat to the health or safety of participants at the day care home, or the provider has engaged in activities that threaten the public's health or safety, the sponsor must **immediately** notify the Department of Children and Family Services and take action consistent with their recommendations and requirements.

Notice of Suspension, Serious Deficiency, and Proposed Termination Procedures

The sponsor will notify the provider 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 (Letter 8/1115) Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice.** *The sponsor will provide a copy of the notice to the state agency.*

The notice will:

- 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.
- State participation (including all program payments) will remain suspended until the Administrative Review (Appeal) concludes.
- Inform the provider if the Administrative Review (Appeal) Official overturns the suspension, the provider may claim reimbursement for eligible meals served during the suspension.
- Inform the provider termination of the home's agreement will result in placement of the home on the National Disqualified List.
- 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.

If an Administrative Review (Appeal) is requested, the sponsor will follow the Administrative Review (Appeal) Procedures for Family Day Care Homes (Section 1116 of Handbook) detailed in this document. If the Administrative Review (Appeal) Official overturns the sponsor's proposed actions, formal notification will be used to rescind the serious deficiency. **Refer to Sample Letter 9 (Letter 9/1115) 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 the state agency.*

Agreement Termination and Disqualification

The sponsor will immediately terminate the day care home's agreement and disqualify the home when the Administrative Review (Appeal) Official upholds the sponsor's Proposed Termination and Proposed Disqualification and issues the Notice of Termination and Disqualification to the home. **Refer to Sample Letter 10 (Letter 10/1115) 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 the state agency.*

If the provider does not request an Administrative Review (Appeal), the sponsor will immediately terminate the provider's agreement and disqualify the home when the opportunity to request the Administrative Review (Appeal) expires. At the same time, the Notice of Termination and Disqualification is issued to the home. **Refer to Sample Letter 11 (Letter 11/1115) 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 the state agency.*

The state agency will report the name of the terminated and disqualified provider to the federal government thus 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 Administrative Review (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.

Sample Letter 8/1115

Sample Letter 8/1115—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 with a return receipt via United States Postal Service or an equivalent private delivery service (such as Federal Express), facsimile, or email as required by 7 CFR Part 226.2 (definition of the term NOTICE) in the regulations.

Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice

<DATE>

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE 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 you are seriously deficient in your operation of the CACFP. <IN THIS AREA, DOCUMENT WHAT WAS DETERMINED.>

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 CACFP regulation 7 CFR Part 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>.

Sample Letter 8/1115—Prototype Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice: Imminent Threat to Health or Safety

Page 2

[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.]

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 (NDL). While on the NDL, 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 the serious deficiencies have been corrected or until seven years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the National Disqualified List until the debt has been repaid.

These actions are being taken pursuant to CACFP regulation 7 CFR Part 226.16(l)(4)(i).

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 7 CFR PART 226.16(l)(2) (IF THE SERIOUS DEFICIENCY IS NOT SPECIFICALLY LISTED, CITE 7 CFR PART 226.16(l)(2)(ix) "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 failure to do so could result in the denial of your request for an appeal.

Summary

The suspension will remain in effect during the period of any appeal request an appeal and the Administrative Review Official overturns the suspension, and 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.

Sample Letter 8/1115—*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 AND TITLE >

Enc: Appeal Procedures
cc: Illinois State Board of Education

Sample Letter 9/1115

Sample Letter 9/1115—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 with a return receipt by United States Postal Service or an equivalent private delivery service (such as Federal Express), facsimile, or email as required by 7 CFR Part 226.2 (definition of the term NOTICE) in the regulations.

Rescission of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification

<DATE>

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE 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 (Notice Serious Deficiency) 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 our 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 AND TITLE>

cc: Illinois State Board of Education

Sample Letter 10/1115

Sample Letter 10/1115—Notice of Termination and Disqualification: Imminent Threat to Health or Safety (After Sponsor Wins Appeal)

NOTE: This letter must be sent by certified mail with a return receipt via United States Postal Service or an equivalent private delivery service (such as Federal Express), facsimile, or email as required by 7 CFR Part 226.2 (definition of term NOTICE) in the regulations

Notice of Termination and Disqualification

<DATE>

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE 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 (Notice of Serious Deficiency) that you are seriously deficient in your operation of 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.

Termination and Disqualification

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.

[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.

Sample Letter 10/1115—Notice of Termination and Disqualification: Imminent Threat to Health or Safety (After Sponsor Wins Appeal)

Page 2

Upon disqualification, you will be placed on the National Disqualified List (NDL). While on the NDL, 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 NDL until such time as the State agency determines the serious deficiencies have been corrected or until seven years after your disqualification. However, any debt relating to the serious deficiencies has not been repaid; you will remain on the National Disqualified List until the debt has been repaid.

These actions are being taken pursuant to CACFP regulation 7 CFR Part 226.16(l)(4)(i).

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 AND TITLE>

cc: Illinois State Board of Education

Sample Letter 11/1115

Sample Letter 11/1115—Notice of Termination and Disqualification: Imminent Threat to Health or Safety (Following Failure to Appeal)

NOTE: This letter must be sent by certified mail with a return receipt via United States Postal Service or an equivalent private delivery service (such as Federal Express), facsimile, or email as required by 7 CFR Part 226.2 (definition of the term NOTICE) in the regulations

Notice of Termination and Disqualification

<DATE>

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE 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 (Notice of Serious Deficiency) 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 <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.

Termination and Disqualification

Because the time to request an appeal has now expired, <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.

[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.]

1116 Administrative Review (Appeal) Process

The state agency requires each sponsoring organization establish an Administrative Review (Appeal) process in which the Administrative Review (Appeal) Official is an impartial and independent person not involved in the decision to terminate the provider's participation.

Actions Subject to Administrative Reviews (Appeals)

The following appeal procedures established in accordance with 7 CFR Parts 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 Administrative Reviews (Appeals)

Neither the state agency nor the sponsor is required to offer an Administrative Review (Appeal) for reasons other than those listed above.

Providing the Administrative Review (Appeal) Procedure to Providers

The sponsor will provide a copy of the Administrative Review (Appeal) procedures to each provider:

- Annually
- When the sponsor takes any action subject to an Administrative Review (Appeal) as detailed above
- Any time upon request

All family day care home providers given a Notice of Intent to Terminate for Cause have the right to appeal (request an Administrative Review). An appeal is a process by which an impartial Administrative Review (Appeal) Official reviews information provided by the sponsoring organization and the family day care home provider to determine if procedures were followed and within the federal and state laws, regulations, and policies and procedures governing the Child and Adult Care Food Program (CACFP). See Attachment 1116 for the appeal procedure.

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.

Procedures

A flow chart is provided as shown in Attachment 1116 delineating the following procedures.

Notification, request, and procedure for hearing:

1. 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.
2. 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 (7) calendar days from the date the Notice of Proposed Termination was received by the provider. The original appeal request must be sent to the SO via certified mail. The address should appear as follows:

Sponsoring Organization
Attention: (Name of responsible individual who is tracking appeals)
Street Address
PO Box
City, State Zip Code

The SO will make a copy and forward the original copy of the appeal request to the Administrative Review Official (ARO) via certified mail. The ARO will acknowledge receipt of the request for appeal to both the provider and the SO within ten (10) calendar days. This notice must be in writing.

3. **The provider may refute the charges by showing that the information the sponsor has is incorrect. The provider will supply written documentation to the ARO to review.** In order for the provider's request for an appeal to be considered, written documentation must be filed with the ARO within ten (10) calendar days of the request for appeal. The SO will forward the information to the ARO not later than five (5) calendar days after the additional written documentation is filed with the SO. The ARO will review only the written documentation/record unless there are extenuating circumstances, as defined by the ARO. If the ARO determines an in-person hearing is warranted, he/she will notify both parties. The ARO will set the time and place for the review of the provider records and SO records, if there is an in-person hearing. **In most cases, there is no in-person hearing. The ARO reviews all the documents and makes a decision.**
4. 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.
5. The provider may represent himself/herself, may be represented by another person, or may retain legal counsel.
6. Any information on which the sponsor's action was based will be available to the provider for review. The ARO will make copies of this information available to the provider, if necessary.
7. The ARO 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.
8. The provider, the SO's executive director, and the Illinois State Board of Education must be notified in writing of the ARO's final decision within thirty (30) days from the date of receipt of the request for appeal.

9. 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.
10. Providers continuing to operate while appealing the proposed termination will be reimbursed for any eligible meals served during the period of the appeal.
11. During the period of the review by the ARO, the SO will not take action to collect or offset any overpayment noted in the termination letter.
12. The decision by the ARO is the final administrative decision. There is no further opportunity to appeal to the Illinois State Board of Education.
13. If the provider loses the appeal, the termination date of the agreement is the date of the hearing official's decision.
14. The provider will be placed on the National Disqualified List for a period of seven (7) years, unless the provider owes money. In this case, the provider will remain on the list indefinitely or until CACFP funds have been repaid.

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 USPS 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 ARO overturns 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 Disqualified List. The provider will remain on this list for a period of seven (7) years unless the provider owes money, in which case the provider will remain on the list indefinitely or until CACFP funds have been repaid.
5. State 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 Disqualified List.

The above information has been read and understood by the provider as indicated by the signature below.

Provider's Name (print)	Provider's Signature	Date
Sponsor's Name (print)	Sponsor's Signature	Date

1117 Placement on the National Disqualified List

Providers terminated and disqualified through the Serious Deficiency and Suspension of Participation processes, will be placed on the National Disqualified List.[7 CFR Part 226.6(c)(7)(iv)(A)]. While on the list, the provider will not be able to participate in the CACFP as a day care home provider. In addition, the provider 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 ISBE determines that:

1. The conduct that was the basis for the serious deficiencies has been permanently corrected, *or*
2. It has been seven (7) 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 prepaid.

The state agency and the sponsor will be able to access the database to ensure providers terminated from the program are not approved for participation in the CACFP. Sponsors are prohibited from entering into an agreement with any provider who has been terminated and disqualified and is currently on the National Disqualified List.

1118 Guidelines for Re-Entry to the Child and Adult Care Food Program

Per CACFP federal regulation 7 CFR Part 226.6(c)(7)(vi), once included on the National Disqualified List (NDL) a terminated day care home provider will remain on the NDL until such time as the State agency (Illinois State Board of Education) determines that the serious deficiency(ies) that led to its placement on the NDL has(ve) been corrected, or until seven years have elapsed since its agreement was terminated for cause. However, the provider will not be removed from the NDL until all debt in the program is repaid.

After the State Agency determines the day care home provider should be removed from the NDL, the State agency will make a request in writing to the United States Department of Agriculture Food and Nutrition Service (USDA-FNS) Midwest Regional Office for the day care home provider's removal from the NDL.

Upon receipt of the USDA's approval of the request, the Illinois State Board of Education (ISBE), the sponsoring organization of choice, and the re-entering provider assume the following responsibilities:

ISBE	Provider	Sponsoring Organization
<p>Will notify the day care home provider in writing of its removal, including the removal date as specified by USDA-FNS Midwest Regional Office</p> <p>Will ensure re-entering provider is licensed by the Department of Children and Family Services (DCFS) or the Department of Human Services (DHS)</p> <p>Will contact the sponsoring organization chosen by the provider to inform them of their responsibilities for the re-entering provider</p> <p>State monitor will conduct a visit during the 12-month start-up period to ensure that the serious deficiencies that placed the provider on the NDL are permanently corrected</p>	<p>Must complete all CACFP application requirements to participate again in the program</p> <p>Has the option to pick the sponsoring organization of his/her choice</p> <p>Will inform ISBE of the sponsoring organization the provider has chosen before entering into an agreement</p>	<p>Must ensure that provider has all the necessary requirements for re-participation in the program</p> <p>The sponsor that placed the provider on the NDL is not obligated to sign an agreement with the provider again</p> <p>Must present to ISBE a unique monitoring plan to implement for the re-entering provider. The plan will include but is not limited to:</p> <ul style="list-style-type: none"> - Conducting the first visit not later than two weeks after provider participates again in the program - During the 12-month operation, if the provider committed the same serious deficiencies that placed the provider on the NDL, the provider will be immediately proposed for termination and disqualification - Other serious deficiencies during the 12-month period and beyond will be addressed with the normal Seriously Deficient Process <p>Sponsor should never sign-up a re-entering provider without prior approval from ISBE.</p>

