

**Nutrition and Wellness Programs  
Illinois State Board of Education  
100 North First Street (W270)  
Springfield, Illinois 62777-0001**



# **Child and Adult Care Food Program**

## **Day Care Homes Serious Deficiency Process**

**December 2013**

# 1100 SERIOUS DEFICIENCY PROCESS

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## 1121

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## 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 (ARPA) of 2000, 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 provide the day care home providers proposed for termination and disqualification an administrative review (appeal). In the past, the sponsoring organizations offered and provided these services to the providers. These requests are now processed through the services of a consulting firm who acts as the Administrative Review Official (ARO). The ARO is an impartial and independent person not involved in the decision to terminate the homes participation. The procedures to be used are consistent with 7CFR226.6(l).

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.

Within the organization, the Executive Director or a designated serious deficiency specialist is authorized to sign a Serious Deficiency notice.

## 1110 PROCEDURES

### 1111 Termination of Agreement for Cause/Convenience and Corrective Action Procedures

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. Whether a problem rises to the level of a serious deficiency is taken into considerations. 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).

#### 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 participants on the program, language barriers, 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. 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.

If during a review the sponsor monitor identifies that corrective action is required, a corrective action statement must be written on the review form and the provider must sign the review to show he/she agrees to the corrective action. If the sponsor, through office review of provider documents, identifies the provider needs a Corrective Action Plan, the sponsor must notify the provider, in writing, that he/she has some deficiencies in the operation of CACFP as shown in Sample **Letter 1/1114 - Notice of Noncompliance and Corrective Action**.

If the corrective action taken by the family day care home is accepted, and it is later determined that the corrective action was not permanent and complete, the sponsoring organization must move directly to issuing a Notice of Proposed Termination and Disqualification as shown in Sample **Letter 4/1114 – Notice of Proposed Termination and Proposed Disqualification**.

#### **Termination for Convenience –**

(See Part 2 of Actions That May Lead to Serious Deficiency)

## **1112            Actions That May Lead to Serious Deficiency**

This document 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 (SO) to ensure all day care home providers are treated consistently.

It is very important that SO 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 SO 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, four- week follow-up review, and all reviews during the fiscal year to ensure successful participation for all providers. Technical assistance must be documented and provided during program participation. SO have different formats when finding problems at the monitoring review. Some SO wish to write a detailed letter such as Sample Letter 1/1114 in the Serious Deficiency Handbook, to clarify the problems. Most SO choose to write their findings and the detailed corrective action to be conducted by the provider right on the monitoring review forms the provider signs. This alleviates sending an additional letter.

An additional tool (chart) is added to this revision. This chart is prepared to assist the SO in the steps of the serious deficiency process. It shows the nine (9) categories of serious deficiencies for cause as listed in 7CFR226.16(l)(2). The various findings or scenarios are shown and then classified in a particular category. (Note: There may be some cases where findings may vary in classification; and for ease of use, the narrative version and the chart cross-reference each other).

## **Part 1: TERMINATION FOR CAUSE**

**Submission of False Claims—7CFR 226.16(I)(2)(ii); Failure to Keep Required Records—7CFR 226.16(I)(2)(v); Noncompliance With Meal Pattern—7CFR 226.16(I)(2)(iv); Any Other Circumstance Related to Nonperformance—7CFR 226.16(I)(2)(ix)**

### **ACTIONS**

#### **(v) Menu and meal participation did not match those recorded on the menu form**

##### First Occurrence

- Deduct meals at time of visit or day(s) of occurrences
- Provide technical assistance and corrective action
  - (1) Send sample letter #1 detailing findings and obtain provider's corrective action

OR

- (2) On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Conduct unannounced follow up review

##### Second Occurrence

- Deduct meals
- Provide technical assistance and corrective action
  - On the review form, the monitor writes the provider's agreed upon corrective actions to permanently correct the findings. (Provider signs review form.)
- Begin Seriously Deficient (S.D.) Process and send sample letter #2 (Letter must be sent within 30 days.)

#### **(ii)-Meal not served at time of review, but claimed all other days (Includes meals served at suppers, evening snacks, etc.)**

##### First Occurrence

- If provider can supply adequate justification, return to regular review process
- If provider cannot supply adequate justification, provide technical assistance and corrective action
  - On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
    - Conduct unannounced follow up review

**Submission of False Claims—7CFR 226.16(l)(2)(ii); Failure to Keep Required Records—7CFR 226.16(l)(2)(v); Noncompliance With Meal Pattern—7CFR 226.16(l)(2)(iv); Any Other Circumstance Related to Nonperformance—7CFR 226.16(l)(2)(ix) . . . CONTINUED**

### Second Occurrence

- If provider can supply adequate justification, return to regular review process
- If provider cannot supply adequate justification, provide technical assistance and corrective action
  - On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Conduct household contacts
  - If contacts show misrepresentation of records, begin S. D. Process and send sample letter #2 (Letter must be sent within 30 days.)
  - If contacts show records are correct, provider returns to regular review process

### **(ix)- At review, monitor was unable to observe all children in attendance during shift change**

#### First Occurrence

- If provider can supply adequate justification, return to regular review process
  - If provider cannot supply adequate justification, provide technical assistance and corrective action
    - (1) Send sample letter #1 detailing findings and obtain provider's corrective action
- OR
- (2) On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
  - Conduct unannounced Follow-Up Review
  - Conduct household contact

#### Second Occurrence

- If monitor is able to observe all children in attendance at unannounced Follow-Up Review, return to regular review process
- If monitor is still unable to observe all children in attendance at unannounced Follow-Up Review, provide technical assistance
  - On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Begin S.D. Process and send sample letter #2 (Letter must be sent within 30 days.)



**Submission of False Claims—7CFR 226.16(I)(2)(ii); Failure to Keep Required Records—7CFR 226.16(I)(2)(v); Noncompliance With Meal Pattern—7CFR 226.16(I)(2)(iv); Any Other Circumstance Related to Nonperformance—7CFR 226.16(I)(2)(ix) . . . CONTINUED**

**(ii)- Inappropriate claiming on holidays**

First Occurrence

- Deduct meals at day of visit or day(s) of occurrence
  - Provide technical assistance and corrective action
    - (1) Send sample letter #1 detailing findings and obtain provider's corrective action
- OR
- (2) On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)

Second Occurrence

- Deduct meals at day of visit or day(s) of occurrence
- Provide technical assistance and corrective action
  - On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Conduct household contacts
  - If contacts show misrepresentation of records, begin S. D. Process and send sample letter #2 (Letter must be sent within 30 days.)
  - If contacts show records are correct, provider returns to regular review process

**(ii)- Five-Day Reconciliation Results—Fewer than normally claimed or no children present when monitor review is conducted; provider's records show children are attending and claimed everyday**

First Occurrence

- If provider can supply adequate justification, return to regular review process
  - If provider cannot supply adequate justification, provide technical assistance and corrective action
    - (1) Send sample letter #1 detailing findings and obtain provider's corrective action
- OR
- (2) On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form).
    - Conduct follow unannounced follow-up review

Second Occurrence

- If unannounced Follow-Up Review can supply adequate justification, return to regular review process
- If unannounced Follow-Up Review cannot supply adequate justification, provide technical assistance and corrective action
  - On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)

- Conduct household contacts
  - If contacts show misrepresentation of records, begin S. D. Process and send sample letter #2 (Letter must be sent within 30 days.)
  - If contacts show records are correct, provider returns to regular review process

**Failure to Keep Required Records—7CFR 226.10(d); 7CFR 226.16(e); 226.18(d-e-g) and 226.16(l)(2)(v)**

## **ACTIONS**

### **(v)- Paperwork not up-to-date**

#### First Occurrence

- Deduct meals retroactive to time of discrepancy
- Provide technical assistance and corrective action
  - (1) Send sample letter #1 detailing findings and obtain provider's corrective action
- OR
- (2) On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Conduct unannounced Follow-Up Review

#### Second Occurrence

- Deduct meals retroactive to time of discrepancy
- If unannounced Follow-Up Review shows paperwork is up to date, return to regular review cycle
- If unannounced Follow-Up Review shows paperwork is not up to date, provide technical assistance and corrective action
  - On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Begin S.D. Process and send sample letter #2 (Letter must be sent within 30 days.)

### **(v)- Meal counts recorded in advance**

#### First Occurrence

- Deduct meals retroactive to time of discrepancy
- Provide technical assistance and corrective action
  - (1) Send sample letter #1 detailing findings and obtain provider's corrective action, OR
  - (2) Write on review form agreed upon corrective actions by the provider to permanently correct (Provider signs review form.)
- Conduct unannounced Follow-Up Review

#### Second Occurrence

- Deduct meals retroactive to time of discrepancy

- If unannounced Follow-Up Review shows meal counts are not being recorded in advance, return to regular review cycle
- If unannounced Follow-Up Review shows meal counts are still being recorded in advance, provide technical assistance
  - On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Begin S.D. Process and send sample letter #2 (Letter must be sent within 30 days.)

**(v)- Substitute caregiver/assistant did not have access to paperwork when provider was not at home and review was being conducted**

First Occurrence

- Deduct meals retroactive to time of discrepancy
- Provide technical assistance and corrective action
  - (1) Send sample letter #1 detailing findings and obtain provider's corrective action

OR

- (2) On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)

- Conduct follow up review

Second Occurrence

- Deduct meals retroactive to time of discrepancy
- Provide technical assistance and corrective action
  - On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Begin S.D. Process and send sample letter #2 (Letter must be sent within 30 days.)

**Any other circumstance related to nonperformance – 7CFR226.16(l)(2)(ix); Failure to Comply With Monitoring Requirements—7 CFR226.18(b)**

**ACTIONS**

**(ix)- Provider not home for attempted monitoring review when provider is supposed to be serving a meal. Provider did not contact Sponsor. (*Sponsor can only deduct when monitor conducts review at the provider's prescribed meal service time*)**

First Occurrence

- Deduct meals (Deductions should only be for the meal service that should have been served during attempted review.)
- Provide technical assistance and corrective action
  - (1) Send sample letter #1 detailing findings and obtain provider's corrective action, or

- (2) On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Conduct an unannounced Follow-Up Review

### Second Occurrence

- Deduct meals (Deductions should only be for the meal service that should have been served during attempted review.)
- Conduct household contacts
  - If contacts show there is no children begin S. D. Process and send sample letter #2 (Letter must be sent within 30 days.)
  - If contacts show children are there, send S.D. letter for provider not being at home during time of their meal service and was warned twice. (Letter must be sent within 30 days.)

## **(ix)- Provider did not allow monitor to conduct a review**

### First Occurrence

- Deduct meals from date of attempted monitoring review to beginning of review month
- Provide technical assistance by informing provider that he/she will lose reimbursement from date of attempted review back to the beginning of the month and if this occurs again, he/she will be considered S.D. Monitor must explain that the provider signed an agreement to allow monitoring reviews to be conducted.
- If provider still will not allow a monitoring review, monitor must complete review form noting details of the occurrence. A letter must be sent out to the provider immediately requesting a corrective action stating how this will not occur again.

### Second Occurrence

- Deduct meals from date of attempted monitoring review to beginning of review month.
- Provide technical assistance by informing provider that he/she will lose reimbursement from date of attempted review back to the beginning of the month and this is the second occurrence and he/she will be considered S.D. Monitor must explain that the provider signed an agreement to allow monitoring reviews to be conducted.
- Begin S.D. Process and send sample letter #2 (Letter must be sent within 30 days.)

## ACTIONS

### **(ix)- Meal observation missed by monitor because the meal was served earlier; provider did not follow meal times listed on Site Information Sheet**

#### First Occurrence

- If provider has changed her meal times, monitor must collect new meal times and submit to sponsoring organization.
- Provide technical assistance and corrective action
  - (1) Send sample letter #1 detailing findings and obtain provider's corrective action
- OR
- (2) On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
  - Conduct follow up review

#### Second Occurrence

- Provide technical assistance and corrective action
  - On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Begin S.D. Process and send sample letter #2 (Letter must be sent within 30 days.)

### **(viii)- Provider would not allow training**

#### First Occurrence

- Provide technical assistance by explaining there is a minimum requirement of two hours of annual training and inform the provider that he/she has signed the provider agreement to agree to have training.
- Monitor must try to meet provider's schedule to conduct training in his/her home
- Try to reschedule, monitor must submit to sponsor that training could not be conducted and has reschedule date

#### Second Occurrence

- If provider will not cooperate a second time for the training, inform provider that she will be considered S.D.
- Begin S.D. Process, send sample letter #2 (Letter must be sent within 30 days.)

**Claiming Meals Served Over the Provider's License Capacity and Not Following Licensing Requirements to Participants 7CFR 226.18(e); Submission of False Claims 7CFR226.16(l)(2)(v); Any Other Circumstance Related to Nonperformance 7CFR 226.16(l)(2)(ix)**

## **ACTIONS**

**(ix)- Recorded attendance shows number of children present is over license capacity or number of children observed at monitoring review was over capacity (as verified from enrollment forms). Assistant not present when number of children present is over capacity.**

### First Occurrence

- Deduct meals if at a monitoring review and report to Department of Children and Family Services (DCFS)
  - Provide technical assistance and corrective action
    - (1) Send sample letter #1 detailing findings and obtain provider's corrective action
- OR
- (2) On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
  - If conducting a review of menus and meal attendance sheets, deduct meals

### Second Occurrence

- Deduct meals if at monitoring review and report to DCFS
- Provide technical assistance and corrective action
  - On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Begin S.D. Process and send sample letter #2 (Letter must be sent within 30 days.)

**Any Other Circumstance Related to Nonperformance—7CFR 226.16(l)(2)(ix); Conduct or conditions that threaten the health and safety of children and occupants – 7CFR226.16(l)(2)(vi); Submission of false information on the application – 7CFR226.16(l)(2)(i)**

## **ACTIONS**

### **(ix)- Did not inform sponsoring organization of changes in license, e.g., license revoked, moved and no new license**

- Deduct meals retroactive to discrepancy
- Report to DCFS
- Suspend immediately
  - (1) Send suspension letter and S.D. (Use Sample Letter #8/1115). Letter must be sent within 30 days.
- Must not pay reimbursement (This process should be completed prior to 120 days, maximum amount of time for suspending funds.)

### **(vi)- Children’s health or safety is at risk at monitoring review or during any notified circumstances**

- Report to DCFS
- Suspend immediately
- On the review form, write the provider’s agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Send suspension letter and S.D. letter at same time (Use Sample Letter #8/1115)
- Must not pay reimbursement (This process should be completed prior to 120 days, maximum amount of time for suspending funds.)
- ***Stay onsite until the authorities arrive.***

### **(i)- Provider did not provide accurate information on the Household Income Eligibility Application or in the site sheets.**

#### First Occurrence

- Deduct meals retroactively
- Provide technical assistance and document corrective action on review form. Provider signs form.
  - (1) Send sample letter #1 detailing findings and obtain provider’s corrective action.
    - Conduct household contact

#### Second Occurrence

- Deduct meals retroactively
- Begin S.D. Process and send sample letter #2 (Letter must be sent within 30 days.)

**Submission of False Claims – 7CFR 226.16(l)(2)(ii)**

**(ii)- Provider’s own children claimed without outside-enrolled children in attendance**

First Occurrence

- Deduct meals retroactive to discrepancy
  - Provide technical assistance and corrective action
    - (1) Send sample letter #1 detailing findings and obtain provider’s corrective action
- OR
- (2) On the review form, write the provider’s agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
    - Conduct follow up visit

Second Occurrence

- Deduct meals retroactive to discrepancy
- Provide technical assistance
  - On the review form, write the provider’s agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Begin S.D. Process and send sample letter #2 (Letter must be sent within 30 days.)

**Serving Meals That Do Not Meet Meal Pattern—7CFR 226.20 and 226.16(l)(2)(iv)**

**ACTIONS**

**(iv)- Menus missing meal component(s) observed at monitoring review, in adequate portion sizes, combination foods missing label verification.**

First Occurrence

- Deduct meals at day of visit or day(s) of occurrences
  - Provide technical assistance and corrective action
    - (1) Send sample letter #1 detailing findings and obtain provider’s corrective action
- OR
- (2) On the review form, write the provider’s agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
    - Conduct follow up visit



## Second Occurrence

- Deduct meals at day of visit or day(s) of occurrences
- On the review form, write the provider's agreed upon corrective actions to permanently correct the findings (Provider signs review form.)
- Begin S.D. Process and send sample letter #2 (Letter must be sent within 30 days.)

## **When Not to Use Serious Deficiency Process**

### **Part 2: Termination for Convenience**

**7CFR226.18(b)(8):** *(The right of the Sponsoring Organization or the day care home to terminate the agreement for cause or, subject to stipulations by the State Agency. Sponsoring Organization should include in their Provider Handbook a code of conduct regarding this option. Providers must be given enough time to contact a new sponsoring organization so they will not have a break in their reimbursement.)*

### **ACTIONS**

**(1). Provider moves out of area covered by the sponsoring organization**

**(2). Provider continues to be verbally abusive and threatening during monitoring visits and telephone contacts.**

Child and Adult Care Food Program  
 Nutrition and Wellness Programs  
 Illinois State Board of Education      100 N First St., Springfield IL 62777

P g	Examples of Findings or Scenarios	Corrective Action		Deduct Meals			Conduct unannounced follow-up review	Conduct Household Contact		Report to DCFS	SD Start	Suspend immediately & send Ltr #8 ; withhold payment. Appeal offered to provider
		At office, send Letter #1. Provide & doc TA & obtain CA	Provide & doc TA. At review, write CA on rev form (provider signs form)	At day of visit or day(s) of occurrence	From day of review to 1st of month	Retroactive to time of discrepancy		Contacts disagree w/ provider's records	Contacts agree w/ provider's record, return to regular review		Send SD Notice Sample Ltr #2 w/in 30 days of finding. Request CA	
15	Provider did not provide accurate information in the Household Income Eligibility Application or in the site sheets	(x) 1st occurrence	(x) 1st occurrence	(x) 1st occurrence		(x) 1st & 2nd occurrence	(x) 1st occurrence	(x) 1st occurrence			(x) 2nd occurrence	
8	Meal not served at time of review, but claimed all other days (includes meals served at supper, evening snacks, etc.). If provider can justify, return to regular review; otherwise, provide TA.		(x) 1st & 2nd occurrence				(x) 1st occurrence	(x) 2nd occurrence	(x) 2nd occurrence		(x) 2nd occurrence	
10	Inappropriate claiming on holidays.	(x) 1st occurrence	(x) 1st & 2nd occurrences	(x) 1st & 2nd occurrences		(x) 1st occurrence	(x) 1st occurrence	(x) 2nd occurrence	(x) 2nd occurrence		(x) 2nd occurrence	
10	5- Day Reconciliation Results-fewer than normally claimed or no children present during review, but provider's records show children are attending and claimed every day. 226.16(d)(4)(ii)	(x) 1st occurrence	(x) 1st & 2nd occurrences				(x) 1st occurrence	(x) 2nd occurrence	(x) 2nd occurrence		(x) 2nd occurrence	
16	Provider's own children claimed without outside enrolled children in attendance	(x) 1st occurrence	(x) 1st & 2nd occurrences			(x) 1st & 2nd occurrence	(x) 1st occurrence				(x) 2nd occurrence	

Pg	Examples of Findings or Scenarios	Corrective Action		Deduct Meals			Conduct unannounced follow-up review	Conduct Household Contact		Report to DCFS	SD Start	Suspend immediately & send Ltr #8 ; withhold payment. Appeal offered to provider
		At office, send Sample Letter #1. Provide & doc TA	Provide TA. Send Ltr#1 or write CA on rev form (provider signs form)	At day of visit or day(s) of occurrence	From day of review to 1st of month	Retroactive to time of discrepancy		Contacts disagree w/ provider's records	Contacts agree w/ provider's record, return to regular review		Send SD Notice Sample Ltr #2 w/in 30 days of finding. Request CA	
x	A provider is found to be participating in 2 different sponsors	(x) 1st occurrence	(x) 1st & 2nd occurrence			(x) 1st & 2nd occurrence	(x) 1st occurrence	(x) 1st & 2nd occurrence	(x) 1st & 2nd occurrence		(x) 2nd occurrence	
16	Menus missing meal components observed at review, inadequate portion sizes, combination foods missing label verification. Ex. Pre-packaged foods not meeting meal component requirement	(x) 1st occurrence	(x) 1st & 2nd occurrence	(x) 1st & 2nd occurrence			(x) 1st occurrence				(x) 2nd occurrence	
7	Menu & meal participation did not match those recorded on the menu form	(x) 1st occurrence	(x) 1st & 2nd occurrence	(x) 1st & 2nd occurrence			(x) 1st occurrence				(x) 2nd occurrence	
10	Paperwork not up to date (i.e., attnd of children served not recorded, menus not recorded daily). If follow-up review is ok, return to regular review.	(x) 1st occurrence	(x) 1st & 2nd occurrence			(x) 1st & 2nd occurrences	(x) 1st occurrence				(x) 2nd occurrence	
10	Meal counts recorded in advance - (all meals recorded in advance need to be deducted)	(x) 1st occurrence	(x) 1st & 2nd occurrence			(x) 1st & 2nd occurrences	(x) 1st occurrence				(x) 2nd occurrence	
11	Substitute caregiver did not have access to paperwork when provider was not home during review. DCFS Section 406.11	(x) 1st occurrence	(x) 1st & 2nd occurrence			(x) 1st & 2nd occurrences	(x) 1st occurrence				(x) 2nd occurrence	
x	Meal counts and/or menu are not available on site	(x) 1st occurrence	(x) 1st occurrence		(x) 1st & 2nd occurrences		(x) 1st occurrence	(x) 1st & 2nd occurrence	(x) 1st & 2nd occurrence		(x) 2nd occurrence	
x	The current month's + the previous 12 months' records (enrollment, meal types, attendance, etc.) not on file. Note: The remaining 2 years of records could be offsite & should be accessible at a reasonable time.	(x) 1st occurrence	(x) 1st occurrence				(x) 1st occurrence	(x) 1st & 2nd occurrence	(x) 1st & 2nd occurrences		(x) 2nd occurrence	

P g	Examples of Findings or Scenarios	Corrective Action		Deduct Meals			Conduct unannounced follow-up review	Conduct Household Contact		Report to DCFS	SD Start	Suspend immediately & send Ltr #8 ; withhold payment. Appeal offered to provider
		At office, send Sample Letter #1. Provide & doc TA	Provide TA. Send Ltr#1 or write CA on rev form (provider signs form)	At day of visit or day(s) of occurrence	From day of review to 1st of month	Retroactive to time of discrepancy		Conduct disagree w/ provider's records	Contacts agree w/ provider's record, return to regular review		Send SD Notice Sample Ltr #2 w/in 30 days of finding. Request CA	
x	Current enrollment forms are missing on file or forms missing needed information (Rx, special diet, formula waivers, etc.)	(x) 1st occurrence	(x) 1st & 2nd occurrence			(x) 1st & 2nd occurrences	(x) 1st occurrence	(x) 1st & 2nd occurrence	(x) 1st & 2nd occurrences		(x) 2nd occurrence	
x	Children are left unsupervised; children show signs of being abused-inflicting physical punishment. Stay onsite until authorities arrive		(x) 1st occurrence							(x) 1st occurrence		(x) 1st occurrence
15	Children's health or safety at risk at monitoring review or during any notified circumstances. 226.16(l)(4). Stay onsite until authorities arrive		(x) 1st occurrence			Must not pay reimbursement (process to be completed in 120 days max to suspend funds)				(x) 1st occurrence		(x) 1st occurrence
x	Provider appears incoherent & unaware of children and their safety. Call 911. Stay onsite until authorities arrive. (Monitoring handbook)									(x) 1st occurrence		(x) 1st occurrence
x	A provider pleaded guilty to felony that occurred during the past 7 years					(x) 1st occurrence				(x) 1st occurrence	(x) 1st occurrence	(x) 1st occurrence
13	Provider would not allow training. 226.16(d)(2)		(x) 1st occurrence - Provide tech assistance & explain the reqd min reqt of 2 hrs of annual training as agreed upon in the Sponsor/Provider Permanent Agreement. Monitor must meet provider schedule and reschedule training.								(x) 2nd occurrence	

P g	Examples of Findings or Scenarios	Corrective Action		Deduct Meals			Conduct unannounced follow-up review	Conduct Household Contact		Report to DCFS	SD Start	Suspend immediately & send Ltr #8 ; withhold payment. Appeal offered to provider
		At office, send Sample Letter #1. Provide & doc TA	Provide TA. Send Ltr#1 or write CA on rev form (provider signs form)	At day of visit or day(s) of occurrence	From day of review to 1st of month	Retroactive to time of discrepancy		Contacts disagree w/ provider's records	Contacts agree w/ provider's record, return to regular review		Send SD Notice Sample Ltr #2 w/in 30 days of finding. Request CA	
11	Provider not home for attempted monitoring review when provider is supposed to be serving a meal. Provider did not contact sponsor. 7CFR226.18(b)(14). Sponsor can only deduct if monitor conducts review at the provider's prescribed meal service time. 7CFR 226.18(b)(1)	(x) 1st occurrence	(x) 1st occurrence	(x) 1st & 2nd Only for the meal that shd have been served at time of review			(x) 1st occurrence				(x) 2nd occurrence	
13	Provider did not allow monitor to conduct a review. Inform provider that he/she will lose reimbursement from date of attempted review back to the beginning of the month, & if this occurs again, he/she will be considered SD. Monitor must explain that this is in the permanent agreement that he/she signed with the SO.	(x) 1st occurrence	(x) 1st & 2nd occurrence		(x) 1st & 2nd occurrence						(x) 2nd occurrence	
13	Meal observation missed by monitor because meal was served earlier; provider did not follow meal times listed on Site Information Sheet. If provider has changed meal times, monitor must collect new meal times & submit to SO.	(x) 1st occurrence	(x) 1st & 2nd occurrence				(x) 1st occurrence				(x) 2nd occurrence	

14	Recorded attendance shows # of children present is over capacity, # of children observed during review over capacity (as verified from enrollment forms). Assistant not present when # of children present is over capacity.	(x) 1st occurrence	(x) 1st & 2nd occurrence	(x) 1st & 2nd occurrence			(x) 1st occurrence			(x) 1st & 2nd occurrence	(x) 2nd occurrence	
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P g	Examples of Findings or Scenarios	Corrective Action		Deduct Meals			Conduct unannounced follow-up review	Conduct Household Contact		Report to DCFS	SD Start	Suspend immediately & send Ltr #8 ; withhold payment. Appeal offered to provider
		At office, send Sample Letter #1. Provide & doc TA	Provide TA. Send Ltr#1 or write CA on rev form (provider signs form)	At day of visit or day(s) of occurrence	From day of review to 1st of month	Retroactive to time of discrepancy		Contacts disagree w/ provider's records	Contacts agree w/ provider's record, return to regular review		Send SD Notice Sample Ltr #2 w/in 30 days of finding. Request CA	
9	At review, monitor was unable to observe all children in attendance during shift change. If provider can justify, return to regular review; otherwise, provide technical assistance.	(x) 1st occurrence (when provider cannot justify)	(x) 1st (if unjustifiable), & 2nd occurrence				(x) 1st & 2nd occurrence. If follow-up review is ok, return to regular review.		(x) 2nd occurrence		(x) 2nd occurrence	
15	Did not inform Sponsor of changes in license, e.g. license revoked, moved and no new license. Maximum time of suspending funds - 120 days.					(x) 1st occurrence	(x) 1st occurrence			(x) 1st occurrence		(x) 1st - Send Sample Ltr 8 - Comb Suspension, SD & T&D

## 1113 Procedures for Household Contact and 5-Day Reconciliation

**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. *7CFR226.6(m)(5)*.

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.

### 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 Samples 1-3/1113 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 reply is needed even if your child is no longer in care.

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.

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities).

If you wish to file a Civil Rights program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](http://www.ascr.usda.gov/complaint_filing_cust.html), found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866)632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202)690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339, or (800) 845-6136 (Spanish).

USDA is an equal opportunity provider and employer.



**—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. \_\_\_\_\_  
\_\_\_\_\_

<p>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.</p>	
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 1111, the sponsor must use the following procedures to provide the provider notice of the serious deficiency (ies) and offer 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 (Attachment 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 (Attachment 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 temporarily deferred. **Refer to Sample Letter 3 (Attachment 3/1114) Successful Corrective Actions, Temporary Deferment 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 (Attachment 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 temporarily defer the serious deficiency. **Refer to Sample Letter 5 (Attachment 5/1114) Temporary Deferment of Serious Deficiency, Proposed Termination, and Proposed Disqualification (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 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 (Attachment 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 (Attachment 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>

SENT CERTIFIED WITH RETURN RECEIPT

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

<DATE OF BIRTH\_\_\_\_\_ ISBE SITE #\_\_\_\_>

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>

SENT CERTIFIED WITH RETURN RECEIPT

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

<DATE OF BIRTH \_\_\_\_\_ ISBE SITE # \_\_\_\_\_>

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 7CFR 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 that it fully and permanently corrects all of the serious deficiencies, ***we will temporarily defer the serious deficiencies***. However, 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, Temporary Deferment 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.

#### Temporary Deferment of Serious Deficiency

<DATE>

SENT CERTIFIED WITH RETURN RECEIPT

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

<DATE OF BIRTH \_\_\_\_ - ISBE SITE # \_\_\_\_ >

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 Temporarily Deferred

**Based on the review of the documentation, we have accepted your actions that have fully corrected the serious deficiencies cited in the Serious Deficiency Notice.** As a result, we have temporarily deferred 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, the 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>

SENT CERTIFIED WITH RETURN RECEIPT

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

<DATE OF BIRTH \_\_\_\_\_ ISBE SITE # \_\_\_\_\_>

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 226.16(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—*Temporary Deferment 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.*

#### ***Temporary Deferment of Serious Deficiency, Proposed Termination, and Proposed Disqualification***

<DATE>

SENT CERTIFIED WITH RETURN RECEIPT

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

<DATE OF BIRTH \_\_\_\_\_ ISBE SITE # \_\_\_\_\_>

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 Temporarily Deferred**

As a result, we temporarily deferred the serious deficiency determination as of <DATE OF REVIEW OFFICIAL'S DECISION> (the date of the Administrative Review Official's decision). We are also temporarily deferring 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>

SENT CERTIFIED WITH RETURN RECEIPT

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

<DATE OF BIRTH \_\_\_\_\_ ISBE SITE #\_\_\_\_>

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 still proceed with the actions 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>

SENT CERTIFIED WITH RETURN RECEIPT

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

<DATE OF BIRTH \_\_\_\_\_ ISBE SITE # \_\_\_\_\_>

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 still proceed with the actions 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 for Day Care Homes

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 (Sample Letter 8/1115) Combined Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification Notice: Imminent Threat to Health or Safety.** *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 temporarily defer the serious deficiency. **Refer to Sample Letter 9 (Sample Letter 9/1115) Temporary Deferment 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 (Sample 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 (Sample 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>

SENT CERTIFIED WITH RETURN RECEIPT

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

<DATE OF BIRTH \_\_\_\_\_ ISBE SITE # \_\_\_\_\_>

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)(i-iv).

#### 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 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—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—Temporary Deferment 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.*

#### Temporary Deferment of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification

<DATE>

SENT CERTIFIED WITH RETURN RECEIPT

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

<DATE OF BIRTH \_\_\_\_\_ ISBE SITE # \_\_\_\_\_>

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 temporarily deferred the serious deficiency determination as of <DATE OF HEARING OFFICIAL'S DECISION> (the date of the Administrative Review Official's decision). We are also temporarily deferring 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>

SENT CERTIFIED WITH RETURN RECEIPT

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

<DATE OF BIRTH \_\_\_\_\_ ISBE SITE # \_\_\_\_\_>

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 still proceed with the actions 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>

SENT CERTIFIED WITH RETURN RECEIPT

<PROVIDER NAME>

<PROVIDER STREET ADDRESS>

<PROVIDER CITY, STATE ZIP CODE>

<DATE OF BIRTH \_\_\_\_\_ ISBE SITE # \_\_\_\_\_

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.]*

**Sample Letter 11/1115—Notice of Termination and Disqualification: Imminent Threat to Health or Safety (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 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 section 226.16(l)(4)(i) of CACFP regulation 7 CFR 226.16.

**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

## **1116 Administrative Review (Appeal) Process**

The state agency has established an Administrative Review (Appeal) process in which the Administrative Review Official (ARO) 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 Illinois State Board of Education Nutrition Programs Division through an independent contractor 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 and independent 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).

### **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.

### **Notification, request, and procedure for hearing:**

1. Whenever the Sponsoring Organization 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. **The Provider may refute the charges by showing that the information the sponsor has is incorrect. The Provider will supply written documentation to the Administrative Review Official (ARO) to review.** 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.**
3. 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.
4. The Provider may represent himself/herself, may be represented by another person, or may retain legal counsel.
5. 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.
6. The Provider may continue to operate during an appeal of proposed termination unless there is evidence of imminent threat or danger to the health or welfare of the children.
7. Providers continuing to operate while appealing the proposed termination will be reimbursed for any eligible meals served during the period of the appeal.
8. 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.
9. The decision by the ARO is the final administrative decision to be afforded the Provider.
10. If the Provider loses the appeal, the termination date of the agreement is the date of the hearing official's decision.
11. Upon termination, the Provider will be placed on the National Disqualified List. Once included in the list, a Provider will remain on the list for seven (7) years or until such time as the State agency determines that the serious deficiencies that led to its placement on the list have been corrected. If the Provider has an outstanding debt to the program, he/she will remain on the list indefinitely or until CACFP funds have been repaid.

## Procedures for Administrative Review

### A. Notification:

1. The Sponsoring Organization (SO) will send the Provider the Notice of Proposed Termination and Proposed Disqualification (Notice) by certified mail with return receipts, or email or facsimile with delivery confirmation receipts. The delivery confirmation or return receipt of the Notice should be maintained in file.
2. The Notice will inform the Provider, in writing, of: (1) the actions and the grounds on which the decision to propose to terminate and disqualify the Provider was based; and (2) his/her right to appeal.

### B. Appeal Request:

1. The SO must receive the written appeal request from the Provider no later than seven (7) calendar days from the date the Provider received the Notice. The Provider can send the appeal request by regular mail, certified mail, email, or facsimile.
2. The SO will acknowledge receipt of the appeal request to the Provider within three (3) calendar days from receipt of the appeal request and submit copies to ISBE and the Administrative Review Official (ARO). The acknowledgement letter must indicate the date that the appeal request was received. The letter must also include the name and address of the ARO. The acknowledgement letter must be sent by certified mail with a return receipt, or email or facsimile with delivery confirmation.
3. The SO will make copies of the appeal request and attach these to the acknowledgement letter that will be sent to ISBE and the ARO.
4. The SO will ensure that a copy of the Proposed Termination and Disqualification is sent to the ARO including any direct attachments to the issues, and any list of supporting documentation with page counts no later than three (3) calendar days after receipt of the appeal request—**electronically, if possible**. No additional documentation will be accepted by the ARO after the due date.
5. **The provider may refute the charges by showing that the information the sponsor has is incorrect.** The Provider may submit supporting documentation directly to the ARO. The documentation must be received by the ARO within seven (7) calendar days that he/she received the acknowledgement letter from the SO. No additional documentation will be accepted after the due date. If the ARO needs additional documentation or clarification, the ARO will contact the Provider.
6. In the case of an in-person hearing, failure of the Provider to appear at the scheduled hearing will forfeit the provider's right to appeal.
7. The Provider may represent himself/herself, may be represented by another person, or may retain legal counsel.
8. Upon receipt of the acknowledgement letter from the SO, ISBE will send an email to the ARO which will include the contact information for the Provider and the SO. The email will also include the due date of the appeal decision.

9. If the due date falls on a weekend or a holiday, the next business day will be the due date.

#### C. Appeal Process

1. 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.
2. Each SO will have a designated contact and/or an alternate contact person for any questions the ARO may have.
3. The ARO will issue a written final decision to the Provider, the SO's executive director, and ISBE within **thirty five (35) calendar days** from the time the SO received the appeal request from the Provider.
4. If the due date falls on a weekend or a holiday, the next business day will be the due date.
5. The Provider may continue to operate during an appeal of proposed termination unless there is evidence of imminent threat or danger to the health or welfare of the children.
6. Providers continuing to operate while appealing the proposed termination will be reimbursed for any eligible meals served during the period of the appeal.
7. 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.
8. After the final decision has been issued, the ARO will send all documents used in issuing the decision (Appeal Record) to the SO. The ARO will also send notification to ISBE that the Appeal Record has been sent.
9. The decision by the ARO is the final administrative determination to be afforded the Provider.
10. If the Provider loses the appeal, the termination date of the agreement is the date of the hearing official's decision.
11. Upon termination, the Provider will be placed on the National Disqualified List. Once included in the list, a Provider will remain on the list for seven (7) years or until such time as the State agency determines that the serious deficiencies that led to its placement on the list have been corrected. If the Provider has an outstanding debt to the program, he/she will remain on the list indefinitely or until CACFP funds have been repaid.

#### D. Appeal Procedures- 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 via United States Postal Service.

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.
6. The same appeal procedures apply to those providers who are issued a Notice of Suspension due to health and safety issues [7 CFR 226.16(l)(2)(vi)].

## 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 repaid.

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 Child and Adult Care Food Program (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 <b>before</b> 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"> <li>- Conducting the first visit not later than two weeks after provider participates again in the program</li> <li>- 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</li> <li>- Other serious deficiencies during the 12-month period and beyond will be addressed with the normal Seriously Deficient Process</li> <li>- Sponsor should not sign-up a re-entering provider without prior approval from ISBE</li> </ul>

S A M P L E O N L Y

Date: \_\_\_\_\_

MONITORING PLAN for Re-Entering Providers

Re-Entering Provider's Name: \_\_\_\_\_

Site Number (Use ISBE number): \_\_\_\_\_

Reason(s) provider was placed on the National Disqualified List: (Refer to the letter sent by ISBE regarding this provider):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(ISBE requires that a review be conducted no later than two weeks after the Provider starts participating in the Program).*

Anticipated Start Date (as approved by ISBE): \_\_\_\_\_

Review to be conducted on or before: \_\_\_\_\_

Plan of Action:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Assigned Field Monitor: \_\_\_\_\_

Effective date of this plan: \_\_\_\_\_

Submitted by: \_\_\_\_\_  
(Name of Sponsoring Organization)

\_\_\_\_\_  
(Contact Person)

\_\_\_\_\_  
(Title)

CC: Field Monitor

## **1120           SERIOUS DEFICIENCY LOG**

A sponsoring organization must include in their permanent management plan a Serious Deficiency Log. This log must show the following items in order for the Illinois State Board of Education to verify if its records are in agreement with the sponsoring organization's records.

The Serious Deficiency Log must consist of the following:

- 1) Provider's Name (include alias, if applicable)
- 2) Date of Birth
- 3) Address (P.O. Box not acceptable)
- 4) Date of Serious Deficiency Notice
- 5) Date of Temporary Deferment of the Serious Deficiency
- 6) Date of Notice of Proposed Termination and Proposed Disqualification
- 7) Date Appeal Temporarily Deferred Action
- 8) Date of Termination
- 9) Amount Owed (if any)

## 1121            ADDENDUM

The following pages were revised to reflect some additions, deletions, and other changes:

- 1). Sample Letter 2/1114 – Notice of Serious Deficiency. Deleted statement under Summary, third paragraph, first statement, “*then an unannounced follow-up review will be conducted to verify the adequacy of the corrective action*”, and added, “*we will temporarily defer the serious deficiency.*”
  
- 2). Sample Letter 3/1114 – Successful Corrective Action, Temporary Deferment of Serious Deficiency – Under Serious Deficiency Determination Temporarily Deferred, first paragraph, deleted, “and the results of an unannounced Follow-up review conducted on..”