Appeal Procedures

The following Summer Food Service Program (SFSP) review procedures include notification, request, and procedure for a hearing in accordance with federal regulation 7 CFR § 225.13.

A. Purpose

Sponsors of the SFSP may request administrative review of findings that result in:

- A denial of an application for participation. (225.13(a))
- A denial of a sponsor's request for advance payment. (225.13(a))
- A denial of a sponsor's claim for reimbursement. (225.13(a))
- The Arizona Department of Education's refusal to forward to FNS an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim. (225.13(a))
- A claim against a sponsor for remittance of a payment. (225.13(a))
- The termination of a sponsor or site. (225.13(a))
- Denial of a sponsor's application for a site. (225.13(a))

B. PROCEDURE

Notification, request, and procedure for hearing:

1. Whenever the Arizona Department of Education (ADE) takes action that is subject to review as described in (A) above, ADE will provide the sponsor a written notice, sent certified mail with return receipt requested, that details the action and the basis for the action, and advise the sponsor of its right to an appeal. (225.13(b)(1))
2. A written request for review must be submitted to ADE **no later than 10 business days** from the date on which the notice is received (225.13(b)(2)). The original and one copy of the review request must be sent to:

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

   The Deputy Associate Superintendent will forward the request to the review official.
3. Any information on which ADE's action was based will be available to the sponsor for inspection from the date of receipt of the request for review. (225.13(b)(3))
4. The sponsor may refute the action specified in the Notice in person and by written documentation.
   In order to be considered, written documentation must be filed by the sponsor and ADE with the review official and must be exchanged between ADE and the sponsor no later than 7 calendar days after the sponsor receives the Notice. Written documentation must clearly identify the ADE action being reviewed and must include a photocopy of the notice of action issued by ADE. (225.13(b)(4))
5. The sponsor may retain legal counsel or may be represented by another person. A representative of ADE and legal counsel, if desired, must be allowed to attend the hearing to respond to the testimony presented by the sponsor and to answer questions posed by the review official. (225.13(b)(5))

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6. The review official will hold a hearing in addition to, or instead of, a review of written information submitted by the sponsor only if the sponsor requests a hearing in the written request for review. The appellant may retain legal counsel or may be represented by another person. Failure to appear at a scheduled hearing will constitute the sponsor's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of ADE shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official. (225.13(b)(5))
7. If a hearing is requested, the sponsor and ADE must be provided with at least 5 calendar days advance written notice of the time, date, and place of the hearing. The Notice to the sponsor must be sent by certified mail, return receipt requested. (225.13(b)(6))
8. The hearing will be held within 14 days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received. (225.13(b)(7))
9. The review official shall be independent and impartial, but may be an employee of ADE, although he/she must not have been involved in the action that is the subject of the appeal or be accountable to any person authorized to make decisions that are subject to review as described in Section (A). The sponsor is permitted to contact the review official directly if so desired. (225.13(b)(8-9))
10. Within 5 working days after the appellant's hearing, or within 5 working days after receipt of written documentation if no hearing is held, the review official must make a determination based solely on information provided by ADE, the sponsor, and based on federal and state laws, regulations, policies, and procedures governing the program. The reviewing official will inform the appellant of the determination of the review by certified mail, return receipt requested. (225.13(b)(10))
11. ADE's action will remain in effect during the review process. However participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning ADE's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if ADE's action is based on imminent dangers to the health or welfare of the children. If the sponsor or site has been terminated for this reason, ADE shall so specify in its notice of action. (225.13(b)(11))
12. The determination by the state review official is the final administrative determination to be afforded to the sponsor. (225.13(b)(12))

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

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