

RHODE ISLAND DEPARTMENT OF EDUCATION

Office of Statewide Efficiencies
Child Nutrition Programs
255 Westminster Street
Providence, Rhode Island 02903-3400

Appealing an Adverse Action by CACFP Procedures

I. Purpose

Child and Adult Care Food Program (CACFP) Sponsoring Organizations have the right to appeal actions taken by the Rhode Island Department of Education's Child Nutrition Programs (RIDE) which adversely affect their participation in the program or payment of their claims for reimbursement. An adverse action is a decision made by CACFP that is unfavorable to the organization, such as rejecting a claim for reimbursement or proposing to terminate the organization from the program.

The purpose of this procedure is to provide CACFP Sponsors with information about what adverse actions can be appealed, what type of appeals are available, and what steps must be taken to file an appeal.

II. Procedure for Appealing

RIDE will notify the Sponsor and all responsible individuals in writing via certified mail when an action is being taken or is proposed to be taken which adversely affects their participation in the program or payment of a claim for reimbursement. A Sponsor or individual who disagrees with the action taken and wants to appeal that action must submit a written request to the RIDE Child Nutrition Program Administrator. The letter must be **received** by RIDE within 15 calendar days after the Sponsor receives the original notice of action from RIDE.

A. The appeal must include the following:

1. The name and address of the Sponsor
2. The RIDE action the Sponsor is appealing
3. The reason(s) the Sponsor disagrees with the action
4. The relief the Sponsor is seeking from CACFP
5. The type of review the Sponsor is seeking (see Section III)
6. The name, title and signature of an individual legally authorized to represent the Sponsor

B. This letter must be sent to:

Child Nutrition Programs Coordinator
RI Department of Education
Office of Statewide Efficiencies
Shepard Building – 6th Floor
255 Westminster Street
Providence, RI 02903

Any information on which RIDE's action was based will be available to the Sponsor for inspection after RIDE receives the appeal.

III. Option for Sponsors

Responsible individuals have the option to appeal the adverse action even if the Sponsor chooses not to appeal. The Sponsors and individuals may oppose the adverse action either by:

- A. Requesting a review of written documentation by an independent and impartial review official, or
- B. Requesting a hearing before an independent and impartial review official. This must be clearly stated or only written submissions will be reviewed.

A hearing cannot be requested if:

- 1. The application was denied;
- 2. The information submitted on the application was false;
- 3. The Sponsor or one of its principals is on the National Disqualified List (NDL);
- 4. The Sponsor or one of its principals is ineligible to participate in any publicly-funded program due to a violation of program requirements; or
- 5. The Sponsor or one of its principals was convicted of an activity that indicates a lack of business integrity

In the above instances, sponsors and individuals may only request a review of the records.

IV. Next Steps

RIDE will acknowledge the receipt of a Sponsor's or individual's appeal via certified mail within 10 calendar days of receipt of the appeal letter. This confirmation will be in writing. The Sponsor has the right to represent itself or be represented by legal counsel or another person during the appeal process.

- A. If a review of documents is chosen, RIDE will notify the Sponsor of the date the documents must be received by the RI Department of Education's Hearing Officer. This will be within 30 calendar days of the date the Sponsor received the original notice of action from RIDE. The address for the RIDE Department of Legal Services:

Chief Legal Counsel
RIDE Legal Department, 4th Floor
Rhode Island Department of Education
Shepard Building
255 Westminster Street
Providence, RI 02903

If a hearing is requested, RIDE will notify the Sponsor that the RIDE Legal Department will contact them to schedule the hearing. The Sponsor will receive written notice of the hearing date, time, and location at least 10 calendar days before the hearing is scheduled.

- B. A RIDE Hearing Officer will conduct the hearing. A RIDE staff person, represented by RIDE legal counsel, will be present at the hearing to answer questions by the Hearing Officer and to respond to testimony of the Sponsor. If the Sponsor does not appear at the hearing, they give up their right to a hearing unless the Hearing Official agrees to reschedule the hearing, at the Hearing Official's discretion.

The Hearing Officer will make a determination on the adverse action within 60 days of the date on which RIDE receives the Sponsor's appeal. The determination will be communicated in writing to the Sponsor, named individuals, and RIDE.

V. Appealable Actions

A Sponsor may appeal the following actions taken by CACFP:

- A. Denial of a Sponsor's application for participation;
- B. Denial of an application to add a center or a home under a participating Sponsor;
- C. Denial of an application for start-up or expansion funds (Day Care Home Sponsors only);
- D. Denial of a request for advance payments;
- E. Denial of all or part of a claim for reimbursement, unless the claim was submitted late and the Sponsor is not eligible for a one time exception;
- F. Denial by CACFP to forward to USDA an exception request by a Sponsor for payment of a late claim or a request for an upward adjustment to a claim;
- G. Demand for remittance of an overpayment;
- H. Proposed termination of a Sponsor's agreement;
- I. Proposed disqualification of a responsible individual;
- J. Suspension of a Sponsor's participation in CACFP; or
- K. Any other action by CACFP affecting a Sponsor's participation or payment of a claim for reimbursement

VI. General Information

- A. RIDE's action remains in effect during the appeal process.
- B. Sponsors may continue to participate in CACFP and receive reimbursement while they appeal an adverse action unless the action is based on an imminent threat to the health and safety of participants or the submission of a false or fraudulent claim for reimbursement. If the adverse action indicates that your organization's CACFP payments have been suspended, you should also refer to RIDE's "Appealing a Suspension from CACFP Procedures".
- C. RIDE is not required to offer an appeal to a Sponsor for an action taken on the basis of a Federal audit determination or decisions made by USDA on requests for exceptions to claims submission deadlines or on requests for upward adjustments to claims.
- D. Decisions rendered by USDA cannot be appealed.

If you have any questions about the Sponsor's right to appeal an adverse action by CACFP, please refer to 7 CFR 226.6 (k) or contact RIDE's Child Nutrition Program.

Nondiscrimination Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. mail:

U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or

2. fax:

(833) 256-1665 or (202) 690-7442; or

3. email:

Program.Intake@usda.gov

This institution is an equal opportunity provider.

Further, the Rhode Island Department of Education does not discriminate on the basis of age, sex, sexual orientation, gender identity/expression, race, color, religion, national origin or disability. To file a complaint of discrimination with the State of Rhode Island, write to the Rhode Island Department of Education, Director, Office of Equity and Access, 255 Westminster Street, Providence, RI 02903 or call (401) 222-8979.