

**MAINE CHILD NUTRITION POLICY AND PROCEDURES
APPEAL PROCESS
FOR
SUMMER REVIEW**

PURPOSE:

The purpose of the Appeal Process will be to allow a review of a denial of an application for participation; a denial of sponsor's request for an advance payment; a denial of a sponsor's claim for reimbursement (except for late submission under 225.9(d)(5); reclaim of reimbursement for meals claimed incorrectly or a review of the withholding of payment arising from administrative or follow-up review; termination of the sponsor or a site; a denial of a sponsor's application for a site.

DENIAL PROCEDURE:

1. SA will review the application to participate. If denied the sponsor/FSMS will be advised in writing of the grounds upon which the State agency based the action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also state that the sponsor or food service management company has the right to appeal the State's action.

PROCEDURE:

1. Per 225.13(b)(3) the appellant be allowed the opportunity to review any information upon which the action was based. The Sponsor must submit a request for a review within 14 calendar days of receipt of written notice of action sent by certified mail, return receipt requested. The request is to be mailed to: Federal Liaison, Maine Department of Education, 23 State House Station, Augusta, Maine 04333.
2. In requesting an appeal the Sponsor must identify whether they wish to refute the charges in writing or in person. A written appeal must be submitted within seven days of requesting an appeal and must include a photocopy of the notice of action. The Commissioner or designee shall acknowledge the receipt of the request for an appeal within 9 calendar days. The acknowledgement shall specify the name and address of the review official.
3. If a hearing was requested, the Review Official (the Federal Liaison for the Maine Department of Education) shall notify the Sponsor and the Team Leader of the Child Nutrition Services of the date, time and place for the hearing by certified mail, return receipt requested at least 5 calendar days in advance of the hearing date. The review official is to be independent of the original decision-making process.
4. The hearing must be held within 14 days of receipt of the request for review.
5. At the hearing, the Sponsor may be represented by legal counsel. Failure of the Sponsor to appear shall constitute a waiver of the Sponsor's right to a personal appearance before the review official.

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6. The Review Official shall make a determination based upon the information provided by the Sponsor, the Child Nutrition Services and on program regulations; FNS Instructions and guidance.
7. Within 5 days of the hearing, or within 5 working days after receipt of written documentation if no hearing is held, the review official shall, by certified mail, notify the Sponsor and the Child Nutrition Services of the Determination of the review. The final determination shall take effect upon receipt of the decision.
8. During the review appeal process, the Child Nutrition action/decision shall remain in effect. However, participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action.