

CACFP Procedures by Which to File an Appeal

In accordance with 7 CFR Part 226, the Federal Regulations governing the USDA Child & Adult Care Food Program (CACFP), the following procedure is to be followed by an organization wishing to contest an adverse action taken by the State CACFP agency. This procedure complies with regulations found in Federal Regulations at 7 CFR Part 226 and with the State of Maine Administrative Procedures Act, 5 M.S.R.A. §§ 8001-9064.

A. Actions That May BeAppealed:

In accordance with 7 CFR Part 226, an organization, including a sponsoring organization acting on behalf of a facility under its jurisdiction, may appeal the following adverse actions:

1. Denial of an organization's application to participate in the USDA Child & Adult Care Food Program.
2. Denial of an application submitted by a sponsoring organization on behalf of a facility.
3. Termination of the participation of an organization facility.
4. Suspension of an organization's CACFP agreement.
5. Denial of an organization's application for 'Start-Up Funds' payment.
6. Denial of an organization's application for 'Expansion Funds' payment.
7. Denial of all or part of a claim for reimbursement (except for late submissions under 7 CFR Part 226, Subpart D – Payment Provisions, § 226.10(e)).
8. State agency decision not to forward a request for payment of a late claim to the USDA Regional Office.
9. Demand for the remittance of an overpayment (including audit recalls).
10. Any other action affecting the participation of an organization in the CACFP or an organization's claim for reimbursement.

B. Manner of Filing a Request for a Hearing:

A CACFP participant organization aggrieved by an adverse action of the State CACFP agency or by the findings in a single audit report may appeal such action by filing a timely request for a hearing on or before the 15th calendar day after receipt of the notice of adverse action.

A request for a hearing resulting from an adverse action initiated by the State CACFP agency shall be mailed to, or filed with, Federal Liaison, Maine Department of Education, 23 State House Station, Augusta, Maine 04333. A request for a hearing resulting from an adverse finding or conclusion included in a single audit report or in an agency-wide audit report shall be submitted to the lead State agency listed in the organization's current CACFP agreement.

1. The request shall be in writing.
2. The request must contain the name and address of the organization and the name and title of the person who signed the hearing request.
3. The request must be signed by an authorized representative of the organization.
4. An organization that files an appeal and request for a hearing shall be afforded the opportunity to examine and copy the information in the State agency's files upon which the adverse action was based.
5. An organization may represent itself during the hearing process, it may be represented by legal counsel, or it may be represented by another person at the organization's expense.

Upon acceptance, the request for a hearing will be assigned to a Departmental Fair Hearings Officer. The Departmental Fair Hearings Officer shall be an independent and impartial official who is not accountable to the decision-making authority.

C. Content Of A Request For A Hearing:

1. A request for a hearing must clearly identify the adverse action being appealed.
2. The request must identify the basis of the organization's appeal and the relief or remedy being sought.
3. The request must cite the date of the letter or other such written communication from the Department which notified the organization of the proposed adverse action.
4. The request must include the name and title of the official who signs the letter or communication requesting the hearing.
5. An organization may submit written information in support of its position along with its hearing request or the organization may state that it intends to submit additional written information to the designated Fair Hearings Officer. If written information is to be submitted by the organization, it must do so within 30 calendar days after receipt of the State CACFP agency's notice of adverse action.

Any notice of adverse action which may become the basis for a request of a hearing will be sent to the organization by email and/or using the 'Certified Mail, Return Receipt Requested' method. A notice is considered received by the institution or responsible principal or responsible individual five days after being sent to the addressee's last known mailing address, fax number, or email address.

D. Hearing and Decision

If a hearing is requested, the institution, the responsible principals and responsible individuals, and the State agency must be provided with at least 10 days advance notice of the time and the place of the hearing.

The administrative review official must make a determination based solely on the information provided by the State agency, the institution and the responsible principals and responsible individuals, and based on the Federal and State laws, regulations, policies and procedures governing the program. The decision must be issued within 60 days of the State agency's receipt of the request for the administrative review. The determination made by the administrative review official is the final administrative determination.