



# INDIANA DEPARTMENT of EDUCATION

## Summer Food Service Program Instructions for Appeal

This appeal procedure is included with the findings or closure letter regarding any appealable action taken by the Indiana Department of Education (IDOE) in its administration of the Summer Food Service Program (SFSP). An organization that sponsors the SFSP (Sponsor) must follow this procedure to appeal an IDOE action.

IDOE actions subject to appeal are:

1. Denial of an application for Sponsor or a site to participate in the program.
2. Denial of a Sponsor's request for an advance payment.
3. Denial of a claim for reimbursement (except for late submission under 7 CFR (Code of Regulations) 225.9(d)(6)).
4. Refusal by the State Agency to forward to the U.S. Department of Agriculture (USDA) an exception request by the Sponsor for payment of a late claim or a request for an upward adjustment to a claim.
5. A claim against a sponsor for remittance of an overpayment.
6. Termination of Sponsor or a site.
7. Denial of a sponsor's application for a site.

The IDOE action being appealed remains in effect during the appeal process. Sponsor may continue to operate the program during the appeal process unless the IDOE action is based on imminent danger to the health or welfare of children, as specified in IDOE's notice of action. If the IDOE action is termination of Sponsor from program participation for reasons other than imminent danger to the health or welfare of children and the appeal results in overturning the termination, reimbursement shall be paid after the appeal decision for meals served during the appeal process.

### Procedure

1. **Notice of Action:** When IDOE takes an action against a Sponsor that is subject to appeal according to program regulations (7 Code of Federal Regulations 225), IDOE sends notice of the action, and the grounds upon which the action was based, to Sponsor by certified mail – return receipt requested. IDOE advises Sponsor that it has the right to appeal the IDOE action. A notification is considered delivered to the Sponsor five days after being sent to the addressee's last known mailing address as reported within the IDOE CNPweb database.
2. **Request for Appeal:** Sponsor may appeal the IDOE action by submitting an appeal request to the Indiana Office of Administrative Law Proceedings (OALP) at <https://www.in.gov/oalp/file-a-petition-for-review/individuals-or-entities-file-a-petition-for-review/> not later than 15 days after the date that Sponsor received the notice of action to. OALP will acknowledge the receipt of an appeal request within 10 days of its receipt of the request.

3. **Representation**: Sponsor may retain legal counsel or may be represented by another authorized person.
4. **Review of Record**: IDOE will make available, from the date that IDOE receives the appeal request, any information on which the IDOE action was based.
5. **Opposition and Submission of Written Documentation**: Sponsor may refute the findings contained in the notice of action either in person, if a hearing was requested, or by submitting written documentation to the Review Official. To be considered, written documentation must be submitted to OALP and IDOE within seven (7) days of submitting the appeal request, must clearly identify the IDOE action being appealed, and must include a photocopy of the original notice of action issued by IDOE.
6. **Hearing**: If a hearing is requested, the hearing must be held no later than 14 days after receipt of the appeal request. Sponsor will be provided with at least five (5) days advance notice of the time and place of a hearing by certified mail, return receipt requested.

Prior to the hearing, the Review Official will review all written information submitted by Sponsor.

IDOE representative(s) shall be allowed to attend the hearing to respond to Sponsor's testimony and written information and to answer questions from the Review Official. If Sponsor's authorized representative fails to appear at a scheduled hearing, Sponsor waives the right to a personal appearance before the Review Official, unless the Review Official and IDOE agree to reschedule the hearing.

7. **Decision Without a Hearing**: No hearing will be held and the Review Official will base its decision on a full review of the administrative record if Sponsor:
  - Did not request a hearing in accordance with the requirements in Section 2 of this procedure, or
  - Waived the right to a hearing by failing to appear at a scheduled hearing as described in Section 6 of this procedure.
8. **Review Official**: The Review Official is appointed by the IDOE as required in 7 Code of Federal Regulations § 225.13(b). The Review Official will be independent, impartial, and not accountable to any person authorized to make decisions that are subject to appeal.
9. **Decision**: The Review Official will make a determination based solely on the information provided by IDOE, the Sponsor and program regulations.

Within five (5) working days after the hearing, or within five (5) working days after receipt of written documentation if no hearing is held, the Review Official makes a determination based on a full review of the administrative record and informs Sponsor of the decision. This timeframe is an administrative requirement and may not be used as a basis for overturning IDOE's action if a decision is not made within the specified timeframe.

The determination made by the Review Official is the final administrative determination to be afforded to Sponsor.

## **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/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.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](mailto:program.intake@usda.gov)

This institution is an equal opportunity provider.