



## Department of Education

Mike DeWine, Governor  
Paolo DeMaria, Superintendent of Public Instruction

**To:** Sponsors Participating in the Child and Adult Care Food Program (CACFP)

**From:** Andrea Denning, Director  
Office of Integrated Student Supports

**Date:** March 27, 2019

**Re:** Serious Deficiency, Termination, National Disqualification List (NDL) and Removal From the NDL

### **Purpose**

To outline the policy and process of serious deficiency, termination, NDL and removal from the NDL.

The Child and Adult Care Food program (CACFP) serious deficiency process ensures compliance with U.S. Department of Agriculture (USDA) Food and Nutrition Services (FNS) regulations and guidance. It offers state agencies, sponsoring organizations, and FNS the right to terminate for cause centers or day care homes (DCH) that are not in compliance with federal regulations.

Additional information is available in the USDA FNS [Serious Deficiency, Suspension & Appeals for State Agencies & Sponsoring Organizations handbook](#) and USDA policy memo [CACFP 14-2012, Child and Adult Care Food Program Guidance on the Serious Deficiency Process and Acceptable Corrective Action Plans, National Disqualified List Procedures and Debt Collection](#).

### **Policy**

Program regulations define seriously deficient as the status of an institution or a day care home that has been determined to be non-compliant in one or more aspects in its operation of the CACFP (7 CFR 226.2).

CACFP sponsors declared seriously deficient will receive a notice from the Ohio Department of Education, Office of Integrated Student Supports (hereby known as the Department). The notice specifies the serious deficiencies and required documented corrective action to show the issues are fully and permanently corrected. Sponsors and responsible principals that fail to fully and permanently correct serious deficiencies are terminated from the CACFP and placed on the NDL.

Sponsors and/or responsible principals that wish to be removed from the NDL early must successfully complete and submit corrective action applicable to the serious deficiency findings that demonstrates full and permanent correction, pay off any debts owed (including interest) and submit a written request to the Department. Requests for early removal from the NDL must be approved by the Department, FNS Midwest Regional Office (MWRO) and FNS National Office. Removal from the NDL does not have a set timeline, it is at the discretion of the Department, FNS MWRO and FNS National office.

The sponsor and/or responsible principals are solely responsible for documenting that the corrective action is successfully completed. The Department is not required to provide technical assistance related to a request for removal from the NDL.

### **Serious Deficiency and Corrective Actions**

If sponsors meet the corrective action deadline and the Department approves the corrective actions, the serious deficiency will be temporarily deferred. A deferral is not a rescission and carries forward indefinitely.

If any subsequent review shows the serious deficiencies were not fully and permanently corrected, the Department must propose to terminate and disqualify the sponsor and responsible principals.

If the sponsor does not meet the corrective action deadline and/or the corrective actions do not demonstrate permanent correction of the issues, the Department will propose to terminate and disqualify the sponsor and responsible principals.

### **Proposed Termination and Disqualification**

The Department issues the sponsor a notice identifying the sponsor and responsible principals that are proposed for termination and disqualification.

The sponsor may self-terminate. If the sponsor self terminates following a notice of serious deficiency, the Department still must propose disqualification for the sponsor and responsible principals and place them on the NDL for a period of seven years or until the debt is repaid, whichever is longer.

The sponsor may appeal the proposed termination and disqualification. If the sponsor appeals, an independent hearing officer will, through an in-person or written process, review the sponsor's serious deficiency case documentation and decide if the Department's proposed termination and disqualification may proceed.

If the independent hearing officer decides the termination process is not justified, the termination process stops. The Department follows the independent hearing officer decision regarding sponsor program participation.

If the independent hearing officer decides the termination process is justified, the Department will terminate and disqualify the sponsor and responsible principals.

### **Termination and Placement on the NDL**

The Department terminates the sponsor's participation in the CACFP and places the sponsor and responsible principals on the NDL. While on the NDL, the institution and identified responsible principals may not participate in the CACFP or other child nutrition programs.

### **Early Removal from the NDL**

Sponsors and/or responsible principals submit a request to the Department for early removal from the NDL with documented corrective action applicable to the serious deficiency findings that supports permanent correction of the issues.

The request must include a list of the serious deficiencies that were not satisfactorily corrected and lead to the termination, a detailed description of the permanent documented corrective actions taken and any corresponding documentation that confirms the corrective actions. The request also must identify the institution and/or person(s) requesting removal from the NDL.

The sponsor and/or responsible principals are responsible for documenting that the corrective action has been accomplished. If the Department determines the corrective action to be sufficient and approves the removal, the information then must be submitted to the FNS MWRO for approval. If the FNS MWRO approves the Department recommendation, the request for removal is then sent to the FNS National Office for approval. If the Department, FNS MWRO and FNS National Office all agree to the recommendation for removal, the sponsor and/or responsible principal will be taken off the NDL.

Requests to be removed from the NDL must be sent by mail to the following address:

Ohio Department of Education  
Office of Integrated Student Supports  
25 S. Front St., MS 303  
Columbus, OH 43215